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OLDER AMERICANS ACT OF 1965

AND

RELATED PROVISIONS OF LAW

As Amended Through September 30, 1985

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CONTENTS

OLDER AMERICANS ACT OF 1965

Page
Sec. 1. [Short title] 1
Title I—Declaration of Objectives; Definitions 1
  Sec. 101. Declaration of objectives for older Americans 1
  Sec. 102. Definitions 2
Title II—Administration on Aging 3
  Sec. 201. Establishment of Administration on Aging 3
  Sec. 202. Functions of Commissioner 3
  Sec. 203. Federal agency consultation 5
  Sec. 204. Federal Council on the Aging 6
  Sec. 205. Administration of the Act 8
  Sec. 206. Evaluation 8
  Sec. 207. Reports 9
  Sec. 208. Joint funding of projects 10
  Sec. 209. Advance funding 10
  Sec. 210. Application of other laws 10
  Sec. 211. Reduction of paperwork 11
  Sec. 212. Contracting and grant authority 11
  Sec. 213. Surplus property eligibility 11
Title III—Grants for State and Community Programs on Aging 11
 Part A—General Provisions 11
  Sec. 301. Purpose; administration 11
  Sec. 302. Definitions 12
  Sec. 303. Authorization of appropriations; uses of funds 14
  Sec. 304. Allotment; Federal share 14
  Sec. 305. Organization 16
  Sec. 306. Area plans 19
  Sec. 307. State plans 22
  Sec. 308. Planning, coordination, evaluation, and administration of State plans 31
  Sec. 309. Payments 33
  Sec. 310. Disaster relief reimbursements 33
  Sec. 311. Availability of surplus commodities 34
  Sec. 312. Multipurpose senior centers: recapture of payments 35
  Sec. 313. Audit 36
 Part B—Supportive Services and Senior Centers 36
  Sec. 321. Program authorized 36
 Part C—Nutrition Services 38
 Subpart 1—Congregate Nutrition Services 38
  Sec. 331. Program authorized 38
 Subpart 2—Home Delivered Nutrition Services 38
  Sec. 336. Program authorized 38
  Sec. 337. Criteria 38
Title IV—Training, Research, and Discretionary Projects and Programs 39
  Sec. 401. Statement of purpose 39
  Sec. 402. Administration 39
 Part A—Education and Training 39
  Sec. 410. Purpose 39
  Sec. 411. Grants and contracts 40
  Sec. 412. Multidisciplinary centers of gerontology 41
 Part B—Research, Demonstrations, and Other Activities 41
  Sec. 420. Purpose 41

Page
Sec. 421. Research and development projects 42
Sec. 422. Demonstration projects 42
Sec. 423. Special projects in comprehensive long-term care 44
Sec. 424. Special demonstration and support projects for legal assistance for older individuals 46
Sec. 425. National impact activities 46
Sec. 426. Utility and home heating cost demonstration projects 47
Part C—General Provisions 47
Sec. 431. Authorization of appropriations 47
Sec. 432. Payments of grants 47
Sec. 433. Responsibilities of Commissioner 48
Title V—Community Service Employment for Older Americans 48
Sec. 501. Short title 48
Sec. 502. Older American community service employment program 48
Sec. 503. Administration 52
Sec. 504. Participants not Federal employees 53
Sec. 505. Interagency cooperation 53
Sec. 506. Equitable distribution of assistance 54
Sec. 507. Definitions 56
Sec. 508. Authorization of appropriations 56
Title VI—Grants for Indian Tribes 57
Sec. 601. Statement of purpose 57
Sec. 602. Eligibility 57
Sec. 603. Grants authorized 57
Sec. 604. Applications 57
Sec. 605. Administration 59
Sec. 606. Surplus educational facilities 59
Sec. 607. Payments 59
Sec. 608. Authorization of appropriations 59
Title VII—Older Americans Personal Health Education and Training Program 60
Sec. 701. Short title 60
Sec. 702. Findings 61
Sec. 703. Purposes 61
Sec. 704. Older Americans personal health education and training program 61
Sec. 705. Administration 63
Sec. 706. Authorization of appropriations 63

OLDER AMERICANS ACT AMENDMENTS OF 1984

Sec. 1. Short title 65

* * * * * * *

Sec. 505. Study of older Americans community services programs 65

OLDER AMERICANS AMENDMENTS OF 1975

Title III—Prohibition of Discrimination Based on Age 67
Sec. 301. Short title 67
Sec. 302. Statement of purpose 67
Sec. 303. Prohibition of discrimination 67
Sec. 304. Regulations 67
Sec. 305. Enforcement 69
Sec. 306. Judicial review 70
Sec. 307. Study of discrimination based on age 70
Sec. 308. Reports 71
Sec. 309. Definitions 72

COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

Title II—White House Conference on Aging 73
Sec. 201. Short title 73
Sec. 202. Findings and policy 73
Sec. 203. Authority of the President and Secretary; final report 74
Sec. 204. Administration 74
Sec. 205. Advisory committees 75
Sec. 206. Definitions 76

Page
Sec. 207. Authorization of appropriations 76
Title III—Study of Racial and Ethnic Discrimination in Programs for Older Americans 76
Sec. 301. Study authorized 76
Sec. 302. Administrative provisions 77
Sec. 303. Reports 77
Sec. 304. Authorization of appropriations 77
Title V—Miscellaneous Provisions 77
Sec. 501. Repealers; existing projects 77

OLDER AMERICANS ACT OF 1965

(Public Law 89-73)

AN ACT To provide assistance in the development of new or improved programs to help older persons through grants to the States for community planning and services and for training, through research, development, or training project grants, and to establish within the Department of Health, Education, and Welfare an operating agency to be designated as the "Administration on Aging".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older Americans Act of 1965".

(42 U.S.C. 3001 note) Enacted July 14, 1965, P.L. 89-73, sec. 1, 79 Stat. 219.

TITLE I—DECLARATION OF OBJECTIVES; DEFINITIONS

DECLARATION OF OBJECTIVES FOR OLDER AMERICANS

SEC. 101. The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States and of the several States and their political subdivisions to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

(1) An adequate income in retirement in accordance with the American standard of living.

(2) The best possible physical and mental health which science can make available and without regard to economic status.

(3) Suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford.

(4) Full restorative services for those who require institutional care, and a comprehensive array of community-based, long-term care services adequate to appropriately sustain older people in their communities and in their homes.

(5) Opportunity for employment with no discriminatory personnel practices because of age.

(6) Retirement in health, honor, dignity—after years of contribution to the economy.

(7) Pursuit of meaningful activity within the widest range of civic, cultural, educational and training and recreational opportunities.

(8) Efficient community services, including access to low-cost transportation, which provide a choice in supported living arrangements and social assistance in a coordinated manner and

which are readily available when needed, with emphasis on maintaining a continuum of care for the vulnerable elderly.

(9) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.

(10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives and full participation in the planning and operation of community-based services and programs provided for their benefit.

(42 U.S.C. 3001) Enacted July 14, 1965, P.L. 89-73, sec. 102, 79 Stat. 219; amended May 3, 1973, P.L. 93-29, sec. 102, 87 Stat. 30; amended October 18, 1978, P.L. 95-478, sec. 101, 92 Stat. 1513; amended December 29, 1981, P.L. 97-115, sec. 2(a)(1), 95 Stat. 1595; amended October 9, 1984, P.L. 98-459, sec. 102, 98 Stat. 1767.

DEFINITIONS

Sec. 102. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of Health and Human Services, other than for purposes of title V.

(2) The term "Commissioner" means, unless the context otherwise requires, the Commissioner of the Administration on Aging.

(3) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(4) The term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(5) The term "Indian" means a person who is a member of an Indian tribe.

(6) Except for the purposes of title VI of this Act, the term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203; 85 Stat. 688) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.

(7) Except for the purposes of title VI of this Act, the term "tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body. In any case in which a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

(42 U.S.C. 3002) Enacted July 14, 1965, P.L. 89-73, sec. 102, 79 Stat. 219; amended July 1, 1967, P.L. 90-42, sec. 5(a), 81 Stat. 107; amended September 17, 1969, P.L. 91-69, sec. 10(a), 83 Stat. 114; amended November 28, 1975, P.L. 94-135, secs. 104(b),

114(a), 89 Stat. 714, 725; amended October 18, 1978, P.L. 95-478, sec. 503(a), 92 Stat. 1559; amended December 29, 1981, P.L. 97-115, sec. 2(a), 95 Stat. 1595.

TITLE II—ADMINISTRATION ON AGING

ESTABLISHMENT OF ADMINISTRATION ON AGING

SEC. 201. (a) There is established in the Office of the Secretary an Administration on Aging (hereinafter in this Act referred to as the "Administration") which shall be headed by a Commissioner on Aging (hereinafter in this Act referred to as the "Commissioner"). Except for title V, the Administration shall be the agency for carrying out this Act. There shall be a direct reporting relationship between the Commissioner and the Office of the Secretary. In the performance of his functions,[1] the Commissioner shall be directly responsible to the Office of the Secretary. The Secretary shall not approve or require any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner.

(b) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

(42 U.S.C. 3011) Enacted July 14, 1965, P.L. 89-73, sec. 201, 79 Stat. 220; amended May 3, 1973, P.L. 93-29, sec. 201(a), 87 Stat. 30; amended July 12, 1974, P.L. 93-351, sec. 2(a), 88 Stat. 357; amended October 18, 1978, P.L. 95-478, sec. 503(b), 92 Stat. 1559; amended October 9, 1984, P.L. 98-459, sec. 201, 98 Stat. 1767.

FUNCTIONS OF COMMISSIONER

SEC. 202. (a) It shall be the duty and function of the Administration to—

(1) serve as the effective and visible advocate for the elderly within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities over all Federal policies affecting the elderly;

(2) collect and disseminate information related to problems of the aged and aging;

(3) assist the Secretary in all matters pertaining to problems of the aged and aging;

(4) administer the grants provided by this Act;

(5) develop plans, conduct and arrange for research in the field of aging, and assist in the establishment and implementation of programs designed to meet the needs of older individuals for supportive services, including nutrition, hospitalization, education and training services (including preretirement training, and continuing education), low-cost transportation and housing, and health services;

(6) provide technical assistance and consultation to States and political subdivisions thereof with respect to programs for the aged and aging;

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[1] Amendment striking out "his functions" and inserting in lieu thereof "the functions of the Secretary", made by section 201(2) of Public Law 98-459, failed to operate due to incorrect reference to the second sentence.

(7) prepare, publish, and disseminate educational materials dealing with the welfare of older individuals;

(8) gather statistics in the field of aging which other Federal agencies are not collecting, and take whatever action is necessary to achieve coordination of activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to older individuals;

(9) stimulate more effective use of existing resources and available services for the aged and aging, including existing legislative protections with particular emphasis on the application of the Age Discrimination in Employment Act of 1967;

(10) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under authority of this Act;

(11) provide for the coordination of Federal programs and activities related to such purposes;

(12) coordinate, and assist in, the planning and development by public (including Federal, State, and local agencies) and private organizations or programs for older individuals with a view to the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such individuals;

(13) convene conferences of such authorities and officials of public (including Federal, State, and local agencies) and nonprofit private organizations concerned with the development and operation of programs for older individuals as the Commissioner deems necessary or proper for the development and implementation of policies related to the purposes of this Act;

(14) develop and operate programs providing services and opportunities as authorized by this Act which are not otherwise provided by existing programs for older individuals;

(15) carry on a continuing evaluation of the programs and activities related to the purposes of this Act, with particular attention to the impact of medicare and medicaid, the Age Discrimination in Employment Act of 1967, and the programs of the National Housing Act relating to housing for the elderly and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for older people;

(16) provide information and assistance to private organizations for the establishment and operation by them of programs and activities related to the purposes of this Act;

(17) develop, in coordination with other agencies, a national plan for meeting the needs for trained personnel in the field of aging, and for training persons for carrying out programs related to the purposes of this Act, and conduct and provide for the conducting of such training; and

(18) consult with national organizations representing minority individuals to develop and disseminate training packages and to provide technical assistance efforts designed to assist State and area agencies in providing services to older individuals with the greatest economic or social needs.

(b) In order to strengthen the involvement of the Administration in the development of policy alternatives in long-term care and to insure that the development of community alternatives is given priority attention, the Commissioner shall—

(1) develop planning linkages with health systems agencies designated under section 1515 of the Public Health Service Act (42 U.S.C. 3001-4) and with utilization and quality control peer review organizations under title XI of the Social Security Act;

(2) participate in all departmental and interdepartmental activities which concern issues of institutional and noninstitutional long-term health care services development; and

(3) review and comment on all departmental regulations and policies regarding community health and social service development for the elderly.

(c) In executing the duties and functions of the Administration under this Act and carrying out the programs and activities provided for by this Act, the Commissioner, in consultation with the Director of the ACTION Agency, shall take all possible steps to encourage and permit voluntary groups active in supportive services, including youth organizations active at the high school or college levels, to participate and be involved individually or through representative groups in such programs or activities to the maximum extent feasible, through the performance of advisory or consultative functions, and in other appropriate ways.

(42 U.S.C. 3012) Enacted July 14, 1965, P.L. 89-73, sec. 202, 79 Stat. 220; amended May 3, 1973, P.L. 93-29, sec. 201(b), 87 Stat. 31; amended November 28, 1975, P.L. 94-135, sec. 114(c), 89 Stat. 725; amended October 18, 1978, P.L. 95-478, secs. 102(a), 503(b), 92 Stat. 1513, 1559; amended December 29, 1981, P.L. 97-115, secs. 2(b), 2(c), 3(d), 95 Stat. 1595, 1597; amended October 9, 1984, P.L. 98-459, sec. 202, 98 Stat. 1768.

FEDERAL AGENCY CONSULTATION

Sec. 203. (a) The Commissioner, in carrying out the purposes and provisions of this Act, shall advise, consult, and cooperate with the head of each Federal agency or department proposing or administering programs or services substantially related to the purposes of this Act, with respect to such programs or services. The head of each Federal agency or department proposing to establish programs and services substantially related to the purposes of this Act shall consult with the Commissioner prior to the establishment of such programs and services. The head of each Federal agency administering any program substantially related to the purposes of this Act, particularly administering any program set forth in subsection (b), shall, to achieve appropriate coordination, consult and cooperate with the Commissioner in carrying out such program.

(b) For the purposes of subsection (a), programs related to the purposes of this Act shall include—

(1) the Job Training Partnership Act,
(2) title II of the Domestic Volunteer Service Act of 1973,
(3) titles XVI, XVIII, XIX, and XX of the Social Security Act,
(4) sections 231 and 232 of the National Housing Act,
(5) the United States Housing Act of 1937,
(6) section 202 of the Housing Act of 1959,

(7) title I of the Housing and Community Development Act of 1974,

(8) title I of the Higher Education Act of 1965 and the Adult Education Act,

(9) sections 3, 9, and 16 of the Urban Mass Transportation Act of 1964,

(10) the Public Health Service Act,

(11) the Low-Income Home Energy Assistance Act of 1981,

(12) part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons,

(13) the Community Services Block Grant Act, and

(14) demographic statistics and analysis programs conducted by the Bureau of the Census under title 13, United States Code.

(42 U.S.C. 3013) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 32; amended October 18, 1978, P.L. 95-478, sec. 102(b), 92 Stat. 1513; amended December 29, 1981, P.L. 97-115, sec. 2(d), 95 Stat. 1595-1596; amended October 9, 1984, P.L. 98-459, sec. 203, 98 Stat. 1768.

FEDERAL COUNCIL ON THE AGING

SEC. 204. (a)(1) There is established a Federal Council on the Aging to be composed of 15 members. Members shall serve for terms of three years without regard to the provisions of title 5, United States Code. Members shall be appointed by each appointing authority so as to be representative of rural and urban older individuals, national organizations with an interest in aging, business, labor, minorities, and the general public. At least two of the members appointed by each appointing authority shall be older individuals. No full-time officer or employee of the Federal Government may be appointed as a member of the Council.

(2) Members appointed to the Federal Council on the Aging established by this section prior to the date of enactment of the Older Americans Act Amendments of 1984 who are serving on such date, shall continue to serve on the Federal Council established by paragraph (1) of this subsection until members are appointed in accordance with subsection (b)(1).

(b)(1)(A) The members appointed in 1985 shall be referred to as class 1 members; the members appointed in 1986 shall be referred to as class 2 members; and the members appointed in 1987 shall be referred to as class 3 members.

(B)(i) Members of each class shall be appointed in the manner prescribed by this subparagraph.

(ii) Of the members of class 1, two shall be appointed by the President, two by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and one by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

(iii) Of the members of class 2, two shall be appointed by the President, one by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

(iv) Of the members of class 3, one shall be appointed by the President, two by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

(4) Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at a rate not to exceed the daily rate specified for grade GS-18 in section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(c) The President shall designate the Chairperson from among the members appointed to the Council. The Council shall meet at the call of the Chairperson at least quarterly.

(d) The Council shall—

(1) advise and assist the President on matters relating to the special needs of older Americans;

(2) review and evaluate, on a continuing basis, Federal policies regarding the aging and programs and other activities affecting the aging conducted or assisted by all Federal departments and agencies for the purpose of appraising their value and their impact on the lives of older Americans;

(3) serve as a spokesman on behalf of older Americans by making recommendations to the President, to the Secretary, the Commissioner, and to the Congress with respect to Federal policies regarding the aging and federally conducted or assisted programs and other activities relating to or affecting them;

(4) inform the public about the problems and needs of the aging by collecting and disseminating information, conducting or commissioning studies and publishing the results thereof, and by issuing publications and reports; and

(5) provide public forums for discussing and publicizing the problems and needs of the aging and obtaining information relating thereto by conducting public hearings, and by conducting or sponsoring conferences, workshops, and other such meetings.

(e) The Council shall have staff personnel, appointed by the Chairperson, to assist it in carrying out its activities. The head of each Federal department and agency shall make available to the Council such information and other assistance as it may require to carry out its activities.

(f) Beginning with the year 1974 the Council shall make such interim reports as it deems advisable and an annual report of its findings and recommendations to the President not later than March 31 of each year. The President shall transmit each such report to the Congress together with his comments and recommendations.

(g) There are authorized to be appropriated to carry out the provisions of this section $228,900 for fiscal year 1984 and $200,000 for each of the fiscal years 1985, 1986, and 1987.

(42 U.S.C. 3015) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 33; amended November 28, 1975, P.L. 94-135, sec. 101, 89 Stat. 713; amended October 18, 1978, P.L. 95-478, secs. 102(e), 503(b), 92 Stat. 1514-1515, 1559; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(f), 11(b)(1), 95 Stat. 1596, 1606; amended October 9, 1984, P.L. 98-459, sec. 204, 98 Stat. 1769.

ADMINISTRATION OF THE ACT

SEC. 205. (a) In carrying out the purposes of this Act, the Commissioner is authorized to:

(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

(2) provide short-term training and technical instruction;

(3) conduct research and demonstrations;

(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

(5) provide staff and other technical assistance to the Federal Council on the Aging.

(b) In administering the functions of the Administration under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and is authorized to pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

(c) Not later than 120 days after the date of the enactment of the Older Americans Act Amendments of 1984, the Secretary shall issue and publish in the Federal Register proposed regulations for the administration of this Act. After allowing a reasonable period for public comment on such proposed rules and not later than 90 days after such publication, the Secretary shall issue, in final form, regulations for the administration of this Act.

(d) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

(42 U.S.C. 3016) As Added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 34; amended October 18, 1978, P.L. 95-478, sec. 102(f), 92 Stat. 1515; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(g), 95 Stat. 1596; amended October 9, 1984, P.L. 98-459, sec. 205, 98 Stat. 1770.

EVALUATION

SEC. 206. (a) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) The Secretary may not make grants or contracts under title IV of this Act until the Secretary develops and publishes general standards to be used by the Secretary in evaluating the programs and projects assisted under such title. Results of evaluations conducted pursuant to such standards shall be included in the reports required by section 207.

(c) In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects, and conduct, where appropriate, evaluations which compare the effectiveness of related programs in achieving common objectives. In carrying out such evaluations, the Secretary shall consult with organizations concerned with older individuals, including those representing minority individuals.

(d) The Secretary shall annually publish summaries and analyses of the results of evaluative research and evaluation of program and project impact and effectiveness, including, as appropriate, health and nutrition education demonstration projects conducted under section 307(f) the full contents of which shall be transmitted to Congress, be disseminated to Federal, State, and local agencies and private organizations with an interest in aging, and be accessible to the public.

(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

(g) The Secretary is authorized to use such sums as may be required but not to exceed one-tenth of 1 percent of the funds appropriated under this Act for each fiscal year or $300,000 whichever is lower, to conduct program and project evaluations (directly, or by grants or contracts) as required by this title. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriated therefor) shall be reduced accordingly.

(42 U.S.C. 3017) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 35; amended October 18, 1978, P.L. 95-478, sec. 102(g), 92 Stat. 1515; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(c), 2(h), 95 Stat. 1596; amended October 9, 1984, P.L. 98-458, sec. 206, 98 Stat. 1770.

REPORTS

SEC. 207. (a) Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year.

(b) Not later than 2 years after enactment of the Older Americans Act Amendments of 1984, the Commissioner shall prepare and submit a report to the Congress on the extent to which the need for services for the prevention of the abuse of individuals is unmet, based on information gathered pursuant to section 306(a)(6)(J).

(42 U.S.C. 3018) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 35; redesignated December 29, 1981, P.L. 97-115, sec. 2(e), 95 Stat. 1596; amended October 9, 1984, P.L. 98-459, sec. 207, 98 Stat. 1770.

JOINT FUNDING OF PROJECTS

SEC. 208. Pursuant to regulations prescribed by the President and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to any agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose.

(42 U.S.C. 3019) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 35; redesignated December 29, 1981, P.L. 97-115, sec. 2(e), 95 Stat. 1596.

ADVANCE FUNDING

SEC. 209. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

(42 U.S.C. 3020) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 36; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(i), 95 Stat. 1596.

APPLICATION OF OTHER LAWS

SEC. 210. (a) The provisions and requirements of the Act of December 5, 1974 (Public Law 93-510; 88 Stat. 1604) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

(b) No part of the costs of any project under any title of this Act may be treated as income or benefits to any eligible individual (other than any wage or salary to such individual) for the purpose of any other program or provision of Federal or State law.

(42 U.S.C. 3020a) As added November 28, 1975, P.L. 94-135, sec. 102, 89 Stat. 713; amended October 18, 1978, P.L. 95-478, sec. 102(h), 92 Stat. 1515; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(j), 95 Stat. 1596.

REDUCTION OF PAPERWORK

SEC. 211. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Commissioner, in consultation with State agencies designated under section 305(a)(1) and other appropriate agencies and organizations, shall continually review and evaluate all requests by the Administration on Aging for information under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Commissioner shall request only such information as the Commissioner deems essential to carry out the purposes and provisions of this Act and, in gathering such information, shall make use of uniform service definitions to the extent that such definitions are available.

(42 U.S.C. 3020b) As added October 18, 1978, P.L. 95-478, sec. 102(i), 92 Stat. 1516; redesignated December 29, 1981, P.L. 97-115, sec. 2(e), 95 Stat. 1596; amended October 9, 1984, P.L. 98-459, sec. 208, 98 Stat. 1771.

CONTRACTING AND GRANT AUTHORITY

SEC. 212. None of the provisions of this Act shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency, with a profitmaking organization to carry out the provisions of this Act and of the appropriate State plan.

(42 U.S.C. 3020c) As added October 18, 1978, P.L. 95-478, sec. 102(i), 92 Stat. 1516; redesignated December 29, 1981, P.L. 97-115, sec. 2(e), 95 Stat. 1596.

SURPLUS PROPERTY ELIGIBILITY

SEC. 213. Any State or local government agency, and any nonprofit organization or institution, which receives funds appropriated for programs for older individuals under this Act, under title IV or title XX of the Social Security Act, or under titles VIII and X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act, shall be deemed eligible to receive for such programs, property which is declared surplus to the needs of the Federal Government in accordance with laws applicable to surplus property.

(42 U.S.C. 3020d) As added October 18, 1978, P.L. 95-478, sec. 102(i), 92 Stat. 1516; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(k), 95 Stat. 1596.

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING [1]

PART A—GENERAL PROVISIONS

PURPOSE; ADMINISTRATION

SEC. 301. (a) It is the purpose of this title to encourage and assist State and area agencies to concentrate resources in order to devel-

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[1] Title III was completely revised by the Comprehensive Older Americans Act Amendments of 1978 (P.L. 95-478; 92 Stat. 1516). Although the revised title III is similar to the former title in certain respects major changes were made by the Comprehensive Older Americans Act Amendments of 1978. These changes included (1) consolidation into the revised title III of programs contained in former title III (relating to social services), former title V (relating to multipurpose

Continued

op greater capacity and foster the development and implementation of comprehensive and coordinated service systems to serve older individuals by entering into new cooperative arrangements in each State with State and area agencies, and with the providers, including voluntary organizations, of supportive services, including nutrition services and multipurpose senior centers, for the planning, and for the provision of, supportive services, nutrition services, and multipurpose senior centers, in order to—

(1) secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;

(2) remove individual and social barriers to economic and personal independence for older individuals; and

(3) provide a continuum of care for the vulnerable elderly.

(b)(1) In order to effectively carry out the purpose of this title, the Commissioner shall administer programs under this title through the Administration on Aging.

(2) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Transportation, the Office of Community Services and such other agencies and departments of the Federal Government as may be appropriate.

(42 U.S.C. 3021) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1517; amended December 29, 1981, P.L. 97-115, secs. 3(a), 3(d), 95 Stat. 1596, 1597; amended October 9, 1984, P.L. 98-459, sec. 301, 98 Stat. 1771.

DEFINITIONS

SEC. 302. For the purpose of this title—

(1) The term "comprehensive and coordinated system" means a system for providing all necessary supportive services, including nutrition services, in a manner designed to—

(A) facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;

(B) develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older individuals; and

(C) use available resources efficiently and with a minimum of duplication.

(2) The term "information and referral source" means a location where the State or any public or private agency or organization—

(A) maintains current information with respect to the opportunities and serivces available to older individuals,

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senior centers), and former title VII (relating to nutrition services); and (2) the establishment of separate authorization for congregate nutrition services and home delivered nutrition services. Prior to the amendments made by the Comprehensive Older Americans Act Amendments of 1978, former title III had been extensively revised by the Older Americans Comprehensive Services Amendments of 1973 (P.L. 93-29; 87 Stat. 30).

and develops current lists of older individuals in need of services and opportunities; and

(B) employs, where feasible, a specially trained staff to assess the needs and capacities of older individuals, to inform older individuals of the opportunities and services which are available, and to assist such individuals to take advantage of such opportunities and services.

(3) The term "long-term care facility" means any skilled nursing facility, as defined in section 1861(j) of the Social Security Act, any intermediate care facility, as defined in section 1905(c) of the Social Security Act, any nursing home, as defined in section 1908(e) of the Social Security Act, any category of institutions regulated by a State pursuant to the provisions of section 1616(e) of the Social Security Act (for purposes of section 307(a)(12)), and any other similar adult care home.

(4) The term "legal assistance" means legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney), and includes counseling or representation by a nonlawyer where permitted by law, to older individuals with economic or social needs.

(5) The term "planning and service area" means an area specified by a State agency under section 305(a)(1)(E).

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(7) The term "State agency" means the State agency designated by a State under section 305(a)(1).

(8) The term "unit of general purpose local government" means—

(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or

(B) an Indian tribal organization.

(9) The term "education and training service" means a supportive service designed to assist older individuals to better cope with their economic, health, and personal needs through services such as consumer education, continuing education, health education, preretirement education, financial planning, and other education and training services which will advance the objectives of this Act.

(10) The term "older individual" means any individual who is 60 years of age or older.

(11) The term "multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services, which shall include, but not be limited to, provision of health, social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

(12) The term "focal point" means a facility established to encourage the maximum collocation and coordination of services for older individuals.

(42 U.S.C. 3022) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1517; amended December 29, 1981, P.L. 97-115, secs. 3(b), 3(d), 95 Stat. 1596-1597; amended October 9, 1984, P.L. 98-459, sec. 302, 98 Stat. 1771.

AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

Sec. 303. (a) There are authorized to be appropriated $350,300,000 for fiscal year 1984, $325,700,000 for fiscal year 1985, $343,600,000 for fiscal year 1986, and $361,500,000 for fiscal year 1987, for the purpose of making grants under part B of this title (relating to supportive services and senior centers).

(b)(1) There are authorized to be appropriated $365,300,000 for fiscal year 1984, $360,800,000 for fiscal year 1985, $376,500,000 for fiscal year 1986, and $395,000,000 for fiscal year 1987, for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

(2) There are authorized to be appropriated $68,700,000 for fiscal year 1984, $69,100,000 for fiscal year 1985, $72,000,000 for fiscal year 1986, and $75,600,000 for fiscal year 1987, for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).

(c) Grants made under parts B and C of this title may be used for paying part of the cost of—

(1) the administration of area plans by area agencies on aging designated under section 305(a)(2)(A), including the preparation of area plans on aging consistent with section 306 and the evaluation of activities carried out under such plans; and

(2) the development of comprehensive and coordinated systems for supportive services, congregate and home delivered nutrition services, the development and operation of multipurpose senior centers, and the delivery of legal assistance.

(42 U.S.C. 3023) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1518; amended December 29, 1981, P.L. 97-115, secs. 3(c), 3(d), 95 Stat. 1597; amended October 9, 1984, P.L. 98-459, sec. 303, 98 Stat. 1771.

ALLOTMENT; FEDERAL SHARE

Sec. 304. (a)(1) Subject to paragraph (2), from the sums appropriated under section 303 for each fiscal year, each State shall be allotted an amount which bears the same ratio to such sums as the population aged 60 or older in such State bears to the population aged 60 or older in all States, except that (A) no State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, the Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; and (C) American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated for the fiscal year for which the determination is made. For the purpose of the exception contained in clause (A) only, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(2) No State shall be allotted less than the total amount allotted to the State under paragraph (1) of this subsection and section 308 for fiscal year 1984.

(3) The number of individuals aged 60 or older in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to the Commissioner.

(b) Whenever the Commissioner determines that any amount allotted to a State under part B or C for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, the Commissioner shall make such allotment available for carrying out such purpose to one or more other States to the extent the Commissioner determines that such other State will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's allotment (as determined under subsection (a)) for such year, but shall remain available until the end of the succeeding fiscal year.

(c) If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 307, the Commissioner shall withhold the allotment of funds to such State referred to in subsection (a). The Commissioner shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan under section 307, which includes an agreement that any such payment shall be matched in the proportion determined under subsection (d)(1)(D) for such State, by funds or in-kind resources from non-Federal sources.

(d)(1) From any State's allotment, after the application of section 308(b)[1] under this section for any fiscal year—

(A) such amount as the State agency determines, but not more than 8.5 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans;

(B) such amount as the State agency determines to be adequate for conducting an effective ombudsman program under section 307(a)(12) shall be available for conducting such program;

(C) after September 30, 1986, such amount as the State agency determines to be adequate, but not more than 1 percent, for conducting effective demonstration projects in health and nutrition education under section 307(f) shall be available for conducting such projects; and

(D) the remainder of such allotment shall be available to such State only for paying such percentage as the State agency determines, but not more than 85 percent of the cost of supportive services, senior centers, and nutrition services under this title provided in the State as part of a comprehensive and coordinated system in planning and service areas for which there is an area plan approved by the State agency.

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[1] Error in original. A comma should appear after "section 308(b)".

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Commissioner may attribute fair market value to services and facilities contributed from non-Federal sources.

(42 U.S.C. 3024) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1519; amended December 29, 1981, P.L. 97-115, sec. 4, 95 Stat. 1597; amended October 9, 1984, P.L. 98-459, sec. 304, 98 Stat. 1772.

ORGANIZATION

SEC. 305. (a) In order for a State to be eligible to participate in programs of grants to States from allotments under this title—

(1) the State shall, in accordance with regulations of the Commissioner, designate a State agency as the sole State agency to—

(A) develop a State plan to be submitted to the Commissioner for approval under section 307;

(B) administer the State plan within such State;

(C) be primarily responsible for the coordination of all State activities related to the purposes of this Act;

(D) serve as an effective and visible advocate for the elderly by reviewing and commenting upon all State plans, budgets, and policies which affect the elderly and providing technical assistance to any agency, organization, association, or individual representing the needs of the elderly; and

(E) divide the State into distinct planning and service areas (or in the case of a State specified in subsection (b)(5)(A), designate the entire State as a single planning and service area), in accordance with guidelines issued by the Commissioner, after considering the geographical distribution of individuals aged 60 and older in the State, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal services, the distribution of older individuals who have low incomes residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the State which were drawn for the planning or administration of supportive services programs, the location of units of general purpose local government within the State, and any other relevant factors; and

(2) the State agency designated under clause (1) shall—

(A) except as provided in subsection (b)(5), designate for each such area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging for such area;

(B) provide assurances, satisfactory to the Commissioner, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan;

(C) develop a formula, in accordance with guidelines issued by the Commissioner, for the distribution within the State of funds received under this title, taking into account, to the maximum extent feasible, the best available statistics on the geographical distribution of individuals aged 60 and older in the State, and publish such formula for review and comment;

(D) submit its formula developed under subclause (C) to the Commissioner for review and comment; and

(E) provide assurance that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, and include proposed methods of carrying out the preference in the State plan.

(b)(1) In carrying out the requirement of clause (1) of subsection (a), the State may designate as a planning and service area any unit of general purpose local government which has a population of 100,000 or more. In any case in which a unit of general purpose local government makes application to the State agency under the preceding sentence to be designated as a planning and service area, the State agency shall, upon request, provide an opportunity for a hearing to such unit of general purpose local government. A State may designate as a planning and service area under clause (1) of subsection (a) any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance, the effective administration of the programs authorized by this title. The State may include in any planning and service area designated under clause (1) of subsection (a) such additional areas adjacent to the unit of general purpose local government or regions so designated as the State determines to be necessary for, and will enhance the effective administration of the programs authorized by this title.

(2) The State is encouraged in carrying out the requirement of clause (1) of subsection (a) to include the area covered by the appropriate economic development district involved in any planning and service area designated under such clause, and to include all portions of an Indian reservation within a single planning and service area, if feasible.

(3) The chief executive officer of each State in which a planning and service area crosses State boundaries, or in which an interstate Indian reservation is located, may apply to the Commissioner to request redesignation as an interstate planning and service area comprising the entire metropolitan area or Indian reservation. If the Commissioner approves such an application, the Commissioner shall adjust the State allotments of the areas within the planning and service area in which the interstate planning and service area is established to reflect the number of older individuals within the area who will be served by an interstate planning and service area not within the State.

(4) Whenever a unit of general purpose local government, a region, a metropolitan area or an Indian reservation is denied designation under the provisions of clause (1) of subsection (a), such unit of general purpose local government, region, metropolitan area, or Indian reservation may appeal the decision of the State agency to the Commissioner. The Commissioner shall afford such unit, region, metropolitan area, or Indian reservation an opportunity for a hearing. In carrying out the provisions of this paragraph, the Commissioner may approve the decision of the State agency, disapprove the decision of the State agency and require the State agency to designate the unit, region, area, or Indian reservation appealing the decision as a planning and service area, or take such other action as the Commissioner deems appropriate.

(5)(A) A State which on or before October 1, 1980, had designated, with the approval of the Commissioner, a single planning and service area covering all of the older individuals in the State, in which the State agency was administering the area plan, may after that date designate one or more additional planning and service areas within the State to be administered by public or private nonprofit agencies or organizations as area agencies on aging, after considering the factors specified in subsection (a)(1)(E). The State agency shall continue to perform the functions of an area agency for any area of the State not included in a planning and service area for which an area agency has been designated.

(B) Whenever a State agency designates a new area agency on aging after the date of enactment of the Older Americans Act Amendments of 1984, the State agency shall give the right to first refusal to a unit of general purpose local government if (i) such unit can meet the requirements of subsection (c), and (ii) the boundaries of such a unit and the boundaries of the area are reasonably contiguous.

(c) An area agency on aging designated under subsection (a) shall be—

(1) an established office of aging which is operating within a planning and service area designated under subsection (a);

(2) any office or agency of a unit of general purpose local government, which is designated for the purpose of serving as an area agency by the chief elected official of such unit;

(3) any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act on behalf of such combination for such purpose;

(4) any public or nonprofit private agency in a planning and service area which is under the supervision or direction for this purpose of the desigated State agency and which can engage in the planning or provision of a broad range of supportive services, or nutrition services within such planning and service area; or

(5) in the case of a State specified in subsection (b)(5), the State agency;

and shall provide assurance, determined adequate by the State agency, that the area agency will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area or within any unit of general purpose local government designated as a planning and service area the State shall give preferance to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

(d)(1) The publication for review and comment required by clause (2)(C) of subsection (a) shall include—

(A) a descriptive statement of the formula's assumptions and goals, and the application of the definitions of greatest economic or social need,

(B) a numerical statement of the actual funding formula to be used,

(C) a listing of the population, economic, and social data to be used for each planning and service area in the State, and

(D) a demonstration of the allocation of funds, pursuant to the funding formula, to each planning and service area in the State.

(2) For purposes of clause (2)(E) of subsection (a) and paragraph (1) of this subsection, the term "greatest economic need" means the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census, and the term "greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural or social isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens his or her capacity to live independently.

(42 U.S.C. 3025) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1520; amended December 29, 1981, P.L. 97-115, secs. 3(d), 5, 95 Stat. 1597-1598; amended October 9, 1984, P.L. 98-459, sec. 305, 98 Stat. 1773.

AREA PLANS

SEC. 306. (a) Each area agency on aging designated under section 305(a)(2)(A) shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for a two-, three-, or four-year period determined by the State agency, with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 307(a)(1). Each such plan shall—

(1) provide, through a comprehensive and coordinated system, for supportive services, nutrition services, and, where appropriate, for the establishment, maintenance, or construction of multipurpose senior centers, within the planning and service area covered by the plan, including determining the extent of need for supportive services, nutrition services, and multipurpose senior centers in such area (taking into consideration, among other things, the number of older individuals with low incomes residing in such area and the efforts of voluntary organizations in the community), evaluating the effectiveness of the use of resources in meeting such need, and en-

tering into agreements with providers of supportive services, nutrition services, or multipurpose senior centers in such area, for the provision of such services or centers to meet such need;

(2) provide assurances that an adequate proportion of the amount allotted for part B to the planning and service area will be expended for the delivery of each of the following categories of services—

(A) services associated with access to services (transportation, outreach, and information and referral);

(B) in-home services (homemaker and home health aids, visiting and telephone reassurance, chore maintenance, and supportive services for families of elderly victims of Alzheimer's disease and other neurological and organic brain disorders of the Alzheimer's type); and

(C) legal assistance;

and specify annually in such plan, as submitted or as amended, in detail the amount of funds expended for each such category during the fiscal year most recently concluded;

(3) designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers as such focal point;

(4) provide for the establishment and maintenance of information and referral services in sufficient numbers to assure that all older individuals within the planning and service area covered by the plan will have reasonably convenient access to such services;

(5)(A) provide assurances that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, and include proposed methods of carrying out the preference in the area plan; and

(B) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on rural elderly, and inform such individuals of the availability of such assistance;

(6) provide that the area agency on aging will—

(A) conduct periodic evaluations of activities carried out under the area plan;

(B) furnish appropriate technical assistance to providers of supportive services, nutrition services, or multipurpose senior centers in the planning and service area covered by the area plan;

(C) take into account in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;

(D) serve as the advocate and focal point for the elderly within the community by monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect the elderly;

(E) where possible, enter into arrangements with organizations providing day care services for children so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children;

(F) establish an advisory council consisting of older individuals (including minority individuals) who are participants or who are eligible to participate in programs assisted under this Act, representatives of older individuals, local elected officials, and the general public, to advise continuously the area agency on all matters relating to the development of the area plan, the administration of the plan and operations conducted under the plan;

(G) develop and publish methods by which priority of services is determined, particularly with respect to the delivery of services under clause (2); and [1]

(H) establish effective and efficient procedures for coordination between the programs assisted under this title and programs described in section 203(b);

(I) conduct efforts to facilitate the coordination of community-based, long-term care services designed to retain individuals in their homes, thereby deferring unnecessary, costly institutionalization, and designed to emphasize the development of client-centered case management systems as a component of such services;

(J) identify the public and private nonprofit entities involved in the prevention, identification, and treatment of the abuse, neglect, and exploitation of older individuals, and based on such identification, determine the extent to which the need for appropriate services for such individuals is unmet; and

(K) facilitate the involvement of long-term care providers in the coordination of community-based long-term care services and work to ensure community awareness of and involvement in addressing the needs of residents of long-term care facilities.

For purposes of clause (5)(A), the term "greatest economic need" means the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census and the term "greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, cultural or social isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threaten his or her capacity to live independently.

(b)(1) Each State, in approving area agency plans under this section, shall waive the requirement described in clause (2) of subsection (a) for any category of services described in such clause if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area.

(2)(A) Before an area agency on aging requests a waiver under paragraph (1) of this subsection, the area agency on aging shall conduct a timely public hearing in accordance with the provisions of this paragraph. The area agency on aging requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.

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[1] So in original; "and" should be stricken the last place it appears.

(B) The area agency on aging shall prepare a record of the public hearing conducted pursuant to subparagraph (A) and shall furnish the record of the public hearing with the request for a waiver made to the State under paragraph (1).

(c)(1) Subject to regulations prescribed by the Commissioner, an area agency on aging designated under section 305(a)(2)(A) or, in areas of a State where no such agency has been designated, the State agency, may enter into agreement with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this title.

(2) In accordance with an agreement entered into under paragraph (1), funds appropriated under this title may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act.

(42 U.S.C. 3026) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1522; amended December 29, 1981, P.L. 97-115, secs. 3(d), 6, 95 Stat. 1597, 1598; amended October 9, 1984, P.L. 98-459, sec. 306, 98 Stat. 1774.

STATE PLANS

SEC. 307. (a) Except as provided in section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Commissioner a State plan for a two-, three-, or four-year period determined by the State agency, with such annual revisions as are necessary, which meets such criteria as the Commissioner may by regulation prescribe. Each such plan shall—

(1) contain assurances that the State plan will be based upon area plans developed by area agencies on aging within the State designated under section 305(a)(2)(A) and that the State will prepare and distribute a uniform format for use by area agencies in developing area plans under section 306;

(2) provide that each area agency on aging designated under section 305(a)(2)(A) will develop and submit to the State agency for approval an area plan which complies with the provisions of section 306;

(3)(A) provide that the State agency will evaluate the need for supportive services (including legal assistance), nutrition services, and multipurpose senior centers within the State and determine the extent to which existing public or private programs meet such need; and

(B) provide assurances that the State agency will spend in each fiscal year, for services to older individuals residing in rural areas in the State assisted under this title, an amount equal to not less than 105 percent of the amount expended for such services (including amounts expended under title V and title VII) in fiscal year 1978;

(4) provide for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan, and, where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration;

(5) provide that the State agency will afford an opportunity for a hearing upon request to any agency on aging submitting a plan under this title, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan;

(6) provide that the State agency will make such reports, in such form, and containing such information, as the Commissioner may require, and comply with such requirements as the Commissioner may impose to insure the correctness of such reports;

(7) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract;

(8) provide that the State agency will conduct periodic evaluations of activities and projects carried out under the State plan;

(9) provide for establishing and maintaining information and referral services in sufficient numbers to assure that all older individuals in the State who are not furnished adequate information and referral services under section 306(a)(4) will have reasonably convenient access to such services;

(10) provide that no supportive services or nutrition services, will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such services by the State agency or an area agency on aging is necessary to assure an adequate supply of such services, or where such services are directly related to such State or area agency on aging's administrative functions, or where such services of comparable quality can be provided more economically by such State or area agency on aging;

(11) provide that subject to the requirements of merit employment systems of State and local governments, preference shall be given to individuals aged 60 or older for any staff positions (full time or part time) in State and area agencies for which such individuals qualify;

(12) provide assurances that the State agency will—

(A) establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization, other than an agency or organization which is responsible for licensing or certifying long-term care services in the State or which is an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), a long-term care ombudsman program which provides an individual who will, on a full-time basis—

(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of such residents;

(ii) monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in that State;

(iii) provide information as appropriate to public agencies regarding the problems of older individuals residing in long-term care facilities;

(iv) provide for training staff and volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

(v) carry out such other activities as the Commissioner deems appropriate;

(B) establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order;

(C) establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis;

(D) establish procedures to assure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

(i) such complainant or resident, or his legal representative, consents in writing to such disclosure; or

(ii) such disclosure is required by court order; and

(E) in planning and operating the ombudsman program, consider the views of area agencies on aging, older individuals, and provider agencies;

(13) provide with respect to nutrition services that—

(A) each project providing nutrition services will be available to individuals aged 60 or older and to their spouses, and may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided;

(B) primary consideration shall be given to the provision of meals in a congregate setting, except that each area agency (i) may award funds made available under this title to organizations for the provision of home delivered meals to older individuals in accordance with the provisions of subpart 2 of part C, based upon a determination of need made by the recipient of a grant or contract entered into under this title, without requiring that such organizations also provide meals to older individuals in a congregate setting; and (ii) shall, in awarding such funds, select such organizations in a manner which complies with the provisions of subclause (H);

(C)(i) each project will permit recipients of grants or contracts to solicit voluntary contributions for meals furnished in accordance with guidelines established by the Commissioner, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or contract; and (ii) such voluntary contributions will be used to increase the number of meals served by the project involved, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services;

(D) in the case of meals served in a congregate setting, a site for such services and for comprehensive supportive services is furnished in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon a multipurpose senior center, a school, a church, or other appropriate community facility, preferably within walking distance where possible, and where appropriate, transportation to such site is furnished;

(E) each project will establish outreach activities which assure that the maximum number of eligible individuals may have an opportunity to participate;

(F) each project may establish and administer the nutrition project with the advice of persons competent in the field of service in which the nutrition project is being provided, older individuals who will participate in the program, and of persons who are knowledgeable with regard to the needs of older individuals;

(G) each project will provide special menus, where feasible and appropriate to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals;

(H) each area agency will give consideration where feasible, in the furnishing of home delivered meals to the use of organizations which (i) have demonstrated an ability to provide home delivered meals efficiently and reasonably; and (ii) furnish assurances to the area agency that such an organization will maintain efforts to solicit voluntary support and that the funds made available under this title to the organization will not be used to supplant funds from non-Federal sources; and

(I) each area agency shall establish procedures that will allow nutrition project administrators the option to offer a meal, on the same basis as meals are provided to elderly participants, to individuals providing volunteer services during the meal hours;

(14) provide, with respect to the acquisition (in fee simple or by lease for 10 years or more), alteration, or renovation of existing facilities (or the construction of new facilities in any area in which there are no suitable structures available, as determined by the State agency, after full consideration of the recommendations made by area agencies, to be a focal point for the delivery of services assisted under this title) to serve as multipurpose senior centers, that—

(A) the plan contains or is supported by reasonable assurances that (i) for not less than 10 years after acquisition, or not less than 20 years after the completion of construction, the facility will be used for the purpose for which it is to be acquired or constructed, unless for unusual circumstances the Commissioner waives the requirement of this division; (ii) sufficient funds will be available to meet the non-Federal share of the cost of acquisition or construction of the facility; (iii) sufficient funds will be available when acquisition or construction is completed, for effective use of the facility for the purpose for which it is being acquired or constructed; and (iv) the facility will not be used and is not intended to be used for sectarian instruction or as a place for religious worship;

(B) the plan contains or is supported by reasonable assurances that, in the case of purchase or construction, there are no existing facilities in the community suitable for leasing as a multipurpose senior center;

(C) the plans and specifications for the facility are in accordance with regulations relating to minimum standards of construction, promulgated with particular emphasis on securing compliance with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

(D) the plan contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the facility will be paid wages at rates not less than those prevailing for similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, commonly known as the Davis-Bacon Act), and the Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and functions set forth in reorganization plan numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

(E) the plan contains assurances that the State agency will consult with the Secretary of Housing and Urban Development with respect to the technical adequacy of any proposed alteration or renovation;

(15) provide that with respect to legal assistance—

(A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to deliver legal assistance; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Commissioner; and (iii) attempt to involve the private bar in legal assistance activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;

(B) the plan contains assurances that no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need; and the area agency makes a finding, after assessment, pursuant to standards for service promulgated by the Commissioner, that any grantee selected is the entity best able to provide the particular services;

(C) the State agency will provide for the coordination of the furnishing of legal assistance to older individuals within the State, and provide advice and technical assistance in the provision of legal assistance to older individuals within the State and support the furnishing of training and technical assistance for legal assistance for older individuals; and

(D) the plan contains assurances, to the extent practicable, that legal assistance furnished under the plan will be in addition to any legal assistance for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal assistance for older individuals;

(16) provide that whenever the State desires to provide for services for the prevention of abuse of older individuals—

(A) the plan contains assurances that any area agency on aging carrying out such services will conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for—

(i) public education to identify and prevent abuse of older individuals;

(ii) receipt of reports of abuse of older individuals;

(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to by the parties to be referred; and

(iv) referral of complaints to law enforcement or public protective service agencies where appropriate;

(B) the State will not permit involuntary or coerced participation in the program of services described in this clause by alleged victims, abusers, or their households; and

(C) all information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information may be released to a law enforcement or public protective service agency;

(17) provide assurances that each State will provide inservice training opportunities for personnel of agencies and programs funded under this Act;

(18) provide assurances that each State will assign personnel to provide State leadership in developing legal assistance programs for older individuals throughout the State;

(19) provide, with respect to education and training services, assurances that area agencies on aging may enter into grants and contracts with providers of education and training services which can demonstrate the experience or capacity to provide such services (except that such contract authority shall be effective for any fiscal year only to such extent, or in such amounts, as are provided in appropriations Acts);

(20) provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area—

(A) to utilize in the delivery of outreach services under section 306(a)(2)(A), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and

(B) to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include—

(i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and

(ii) providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to take into account effectively linguistic and cultural differences; and

(21) provide that the State agency, from funds allotted under section 304(a) for part B will use an amount equal to an amount not less than 1 percent of such allotment or $20,000, whichever is greater, for the purpose of carrying out the provisions of clause (12), except that (A) the requirement of this clause shall not apply in any fiscal year in which a State spends from State or local sources an amount equal to the amount required to be spent by this clause; and (B) the provisions of this clause shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(b)(1) The Commissioner shall approve any State plan which the Commissioner finds fulfills the requirements of subsection (a).

(2) The Commissioner, in approving any State plan under this section, may waive the requirement described in clause (3)(B) of subsection (a) if the State agency demonstrates to the Commissioner that the service needs of older individuals residing in rural areas in the State are being met, or that the number of older individuals residing in such rural areas is not sufficient to require the State agency to comply with the requirement described in clause (3)(B) of subsection (a).

(c) The Commissioner shall not make a final determination disapproving any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 305, without first affording the State reasonable notice and opportunity for a hearing.

(d) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State agency, finds that—

(1) the State is not eligible under section 305,

(2) the State plan has been so changed that it no longer complies substantially with the provisions of subsection (a), or

(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a),

the Commissioner shall notify such State agency that no further payments from its allotments under section 304 and section 308 will be made to the State (or, in the Commissioner's discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until the Commissioner is satisfied that there will no longer be any failure to comply. Until the Commissioner is so satisfied, no further payments shall be made to such State from its allotments under section 304 and section 308 (or payments shall be limited to projects under or portions of the State plan not affected by such failure). The Commissioner shall, in accordance with regulations the Commissioner shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of this section. Any such payment shall be matched in the proportions specified in section 304.

(e)(1) A State which is dissatisfied with a final action of the Commissioner under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within 30 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by the Commissioner for such purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which the Commissioner's action is based, as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside the Commissioner's order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown may remand the case to the Commissioner to take further evidence, and the Commissioner shall, within 30 days, file in the court the record of those further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(3) The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

(f)(1) From amounts made available under section 304(d)(1)(C) after September 30, 1986, each State shall provide for the establishment of at least one demonstration project for health and nutrition education to be conducted by one or more area agencies on aging within the State based on the information and materials disseminated under section 704(d)(2).

(2) Each such project shall—

(A) be administered by the area agency for the purpose of improving the health and nutrition of older individuals served by the agency;

(B) be established and administered in consultation with an appropriate gerontology center;

(C) be designed to improve the health and nutrition of older individuals through increasing their physical fitness activities and improving the nutritional value of meals in their own daily living habits;

(D) if appropriate, be conducted in conjunction with schools of public health, schools of medicine, public health and social service agencies, private voluntary organizations, or other entities concerned with the health and well-being of older individuals; and

(E) be evaluated and the evaluation shall be submitted prior to October 1, 1987, together with such interim reports as the Commissioner may reasonably require.

(42 U.S.C. 3027) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1524; amended December 29, 1981, P.L. 97-115, secs. 3(d), 7, 95 Stat. 1597, 1598-1599; amended October 9, 1954, P.L. 98-459, sec. 307, 98 Stat. 1775.

PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

SEC. 308. (a)(1) Amounts available to States under subsection (b)(1) may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 percent, of the cost of the administration of its State plan, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of analyses related to the need for supportive services, nutrition services, and multipurpose senior centers within the State, and dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services assisted under this title.

(2) Any sums available to a State under subsection (b)(1) for part of the cost of the administration of its State plan which the State determines is not needed for such purposes may be used by the State to supplement the amount available under section 304(d)(1)(A) to cover part of the cost of the administration of area plans.

(3) Any State which has designated a single planning and service area under section 305(a)(1)(E) covering all, or substantially all, of the older individuals in such State, as determined by the Commissioner, may elect to pay part of the costs of the administration of State and area plans either out of sums received under this section or out of sums made available for the administration of area plans under section 304(d)(1)(A), but shall not pay such costs out of sums received or allotted under both such sections.

(b)(1)(A) [1] If for any fiscal year the aggregate amount appropriated under section 303 does not exceed $800,000,000, then—

(i) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or $300,000; and

(ii) in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or $75,000;

shall be available to such State to carry out the purposes of this section.

(2)(A) [1] If for any fiscal year the aggregate amount appropriated under section 303 exceeds $800,000,000, then—

(i) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or $500,000; and

(ii) in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or $100,000;

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[1] Errors in original. These paragraphs should be designated as "(1)" and "(2)", respectively.

shall be available to such State to carry out the purposes of this section.

(3)(A) If the aggregate amount appropriated under section 303 for a fiscal year does not exceed $800,000,000, then any State which desires to receive amounts, in addition to amounts alloted to such State under paragraph (1), to be used in the administration of its State plan in accordance with subsection (a) may transmit an application to the Commissioner in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Commissioner may require, except that such application may not be made as part of, or as an amendment to, the State plan.

(B) The Commissioner may approve any application transmitted by a State under subparagraph (A) if the Commissioner determines, based upon a particularized showing of need that—

(i) the State will be unable to fully and effectively administer its State plan and to carry out programs and projects authorized by this title unless such additional amounts are made available by the Commissioner;

(ii) the State is making full and effective use of its allotment under paragraph (1) and of the personnel of the State agency and area agencies designated under section 305(a)(2)(A) in the administration of its State plan in accorance with subsection (a); and

(iii) the State agency and area agencies of such State designated under section 305 are carrying out, on a full-time basis, programs and activities which are in furtherance of the purposes of this Act.

(C) The Commissioner may approve that portion of the amount requested by a State in its application under subparagraph (A) which he determines has been justified in such application.

(D) Amounts which any State may receive in any fiscal year under this paragraph may not exceed three-fourths of 1 percent of the sum of the amounts allotted under section 304(a) to such State to carry out the State plan for such fiscal year.

(E) No application by a State under subparagraph (A) shall be approved unless it contains assurances that no amounts received by the State under this paragraph will be used to hire any individual to fill a job opening created by the action of the State in laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

(4) Notwithstanding any other provision of this title, with respect to funds received under section 303(b) (1) and (2), a State may elect in its plan under section 307(a)(13) regarding part C of this title, to transfer a portion of the funds appropriated between subpart 1 and subpart 2 of part C, for use as the State considers appropriate to meet the needs of the area served. The Commissioner shall approve any such transfer unless the Commissioner determines that such transfer is not consistent with the purposes of this Act.

(5)(A) Notwithstanding any other provisions of this title and except as provided in subparagraph (B), with respect to funds received under subsection (a) and subsection (b) of section 303, a State may elect to transfer not more than 20 per centum of the funds appropriated for any fiscal year between programs under part B and part C of this title, for use as the State considers appropriate. The State shall notify the Commissioner of any such election.

(B) Of the funds received under section 303, a State may elect to transfer under subparagraph (A)—

(i) not more than 27 percent of the funds appropriated for fiscal year 1985;

(ii) not more than 29 percent of the funds appropriated for fiscal year 1986; and

(iii) not more than 30 percent of the funds appropriated for fiscal year 1987.

(c) The amounts of any State's allotment under subsection (b) for any fiscal year which the Commissioner determines will not be required for that year for the purposes described in subsection (a)(1) shall be available to provide services under part B or part C, or both, in the State.

(42 U.S.C. 3028) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1530; amended December 29, 1981, P.L. 97-115, secs. 3(d), 8, 95 Stat. 1597, 1600; amended October 9, 1984, P.L. 98-459, sec. 308, 98 Stat. 1777.

PAYMENTS

SEC. 309. (a) Payments of grants or contracts under this title may be made (after necessary adjustments resulting from previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine. From a State's allotment for a fiscal year which is available under section 308 the Commissioner may pay to a State which does not have a State plan approved under section 307 such amounts as the Commissioner deems appropriate for the purpose of assisting such State in developing a State plan.

(b)(1) For each fiscal year, not less than 25 percent of the non-Federal share of the total expenditures under the State plan which is required by section 304(d) shall be met from funds from State or local public sources.

(2) Funds required to meet the non-Federal share required by section 304(d)(1)(D), in amounts exceeding the non-Federal share required prior to fiscal year 1981, shall be from State sources.

(c) A State's allotment under section 304 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 307 are less than its expenditures from such sources for the preceding fiscal year.

(42 U.S.C. 3029) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1532; amended October 9, 1984, P.L. 98-459, sec. 309, 98 Stat. 1779.

DISASTER RELIEF REIMBURSEMENTS

SEC. 310. (a)(1) The Commissioner may provide reimbursements to any State, upon application for such reimbursement, for funds such State makes available to area agencies in such State for the delivery of supportive services during any major disaster declared by the President in accordance with the Disaster Relief Act of 1974.

(2) Total payments to all States under paragraph (1) in any fiscal year shall not exceed 5 percent of the total amount appropriated and available for carrying out the purposes of section 422.

(b)(1) At the beginning of each fiscal year the Commissioner shall set aside, for payment to States under subsection (a), an amount equal to 5 percent of the total amount appropriated and available for carrying out the purposes of section 422.

(2) Amounts set aside under paragraph (1) which are not obligated by the end of the third quarter of any fiscal year shall be made available for carrying out the purposes of section 422.

(c) Nothing in this section shall be construed to prohibit expenditures by States for disaster relief for older individuals in excess of amounts reimbursable under this section, by using funds made available to them under other sections of this Act or under other provisions of Federal or State law, or from private sources.

(42 U.S.C. 3030) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1533; amended December 29, 1981, P.L. 97-115, secs. 3(d), 11(b), 95 Stat. 1597, 1606.

AVAILABILITY OF SURPLUS COMMODITIES

SEC. 311. (a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(2) The Commodities Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

(4) Subject to the authorization of appropriations specified in subsection (c), in donating commodities under this subsection, the Secretary of Agriculture shall maintain an annually programmed level of assistance of not less than 15 cents per meal during fiscal year 1976, 25 cents per meal during fiscal year 1977 and fiscal year 1978, and 30 cents per meal for each fiscal year thereafter. The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

(b)(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

(c)(1)(A) There are authorized to be appropriated $105,000,000 for fiscal year 1984, $120,800,000 for fiscal year 1985, $125,900,000 for fiscal year 1986, and $132,000,000 for fiscal year 1987, to carry out the provisions of this section (other than the provisions of subsection (a)(1)) and such additional sums as may be necessary for each such fiscal year to maintain the level of reimbursement for the number of meals served under such provisions in fiscal year 1983.

(B) Effective on the first day of the first month beginning after the date of enactment of the Older Americans Act Amendments of 1984, no State may receive reimbursement under the provisions of this section unless the State submits final reimbursement claims for meals within 90 days after the last day of the quarter for which the reimbursement is claimed.

(2) In any fiscal year in which compliance with subsection (a)(4) of this section costs more than the amounts authorized under paragraph (1) of this subsection for that fiscal year the Secretary of Agriculture shall reduce the cents per meal level determined pursuant to subsection (a)(4) for that fiscal year as necessary to meet the authorization of appropriations for that fiscal year.

(42 U.S.C. 3030a) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1533; amended December 29, 1981, P.L. 97-115, sec. 9, 95 Stat. 1600; amended October 9, 1984, P.L. 98-459, sec. 310, 98 Stat. 1779.

MULTIPURPOSE SENIOR CENTERS: RECAPTURE OF PAYMENTS

SEC. 312. If, within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under this title—

(1) the owner of the facility ceases to be a public or nonprofit private agency or organization; or

(2) the facility ceases to be used for the purposes for which it was acquired (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(42 U.S.C. 3030b) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1534.

ADUIT

Sec. 313. (a) The Commissioner and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

(b) State agencies and area agencies on aging shall not request information or data from providers which is not pertinent to services furnished pursuant to this Act or a payment made for such services.

(42 U.S.C. 3030c) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1535; amended October 9, 1984, P.L. 98-459, sec. 311, 98 Stat. 1779.

Part B—Supportive Services and Senior Centers

PROGRAM AUTHORIZED

Sec. 321. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for any of the following supportive services:

(1) health, education and training, welfare, informational, recreational, homemaker, counseling, or referral services;

(2) transportation services to facilitate access to supportive services or nutrition services, or both;

(3) services designed to encourage and assist older individuals to use the facilities and services available to them;

(4) services designed (A) to assist older individuals to obtain adequate housing, including residential repair and renovation projects designed to enable older individuals to maintain their homes in conformity with minimum housing standards; (B) to adapt homes to meet the needs of older individuals suffering from physical disabilities; or (C) to prevent unlawful entry into residences of elderly individuals, through the installation of security devices and through structural modifications or alterations of such residences;

(5) services designed to assist older individuals in avoiding institutionalization and to assist individuals in long-term care institutions who are able to return to their communities, including client assessment through case management and integration and coordination of community services such as preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, and letter writing services, through resource development and management to assist such individuals to live independently in a home environment;

(6) services designed to provide legal assistance and other counseling services and assistance, including tax counseling and assistance, financial counseling, and counseling regarding

appropriate health and life insurance coverage, to older individuals;

(7) services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity and exercise;

(8) services designed to provide health screening to detect or prevent illnesses, or both, that occur most frequently in older individuals;

(9) services designed to provide preretirement and second career counseling for older individuals;

(10) services of an ombudsman at the State level to receive, investigate, and act on complaints by older individuals who are residents of long-term care facilities and to advocate the well-being of such individuals;

(11) services which are designed to meet the unique needs of older individuals who are disabled;

(12) services to encourage the employment of older workers, including job counseling and, where appropriate, job development, referral, and placement;

(13) crime prevention services and victim assistance programs for older individuals;

(14) a program, to be known as "Senior Opportunities and Services", designed to identify and meet the needs of older, poor individuals 60 years of age or older in one or more of the following areas: (A) development and provision of new volunteer services; (B) effective referral to existing health, employment, housing, legal, consumer, transportation, and other services; (C) stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; and (D) such other services as the Commissioner may determine are necessary or especially appropriate to meet the needs of the older poor and to assure them greater self-sufficiency;

(15) services for the prevention of abuse of older individuals in accordance with clause (16) of section 307(a);

(16) inservice training and State leadership for legal assistance activities;

(17) health and nutrition education services;

(18) services designed to enable mentally impaired older individuals to attain and maintain emotional well-being and independent living through a coordinated system of support services; or

(19) any other services;

if such services meet standards prescribed by the Commissioner and are necessary for the general welfare of older individuals.

(b)(1) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities to serve as multipurpose senior centers.

(2) Funds made available to a State under this part may be used for the purpose of assisting in the operation of multipurpose senior centers and meeting all or part of the costs of compensating profes-

sional and technical personnel required for the operation of multipurpose senior centers.

(42 U.S.C. 3030d) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1535; amended December 29, 1981, P.L. 97-115, secs 3(d), 10(a)-10(c), 95 Stat. 1597, 1600-1601; amended October 9, 1984, P.L. 98-459, sec. 312, 98 Stat. 1779.

PART C—NUTRITION SERVICE

Subpart 1—Congregate Nutrition Services

PROGRAM AUTHORIZED

SEC. 331. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects—

(1) which, 5 or more days a week, provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council;

(2) which shall be provided in congregate settings; and

(3) which may include nutrition education services and other appropriate nutrition services for older individuals.

(42 U.S.C. 3030e) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1536.

Subpart 2—Home Delivered Nutrition Services

PROGRAM AUTHORIZED

SEC. 336. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals which, 5 or more days a week, provide at least one home delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

(42 U.S.C. 3030f) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1536.

CRITERIA

SEC. 337. The Commissioner, in consultation with organizations of and for the aged, blind, and disabled, and with reprsentatives from the American Dietetic Association, the Association of Area Agencies on Aging, the National Association of Nutrition and Aging Services Programs, the National Association of Meals Programs, Incorporated, and any other appropriate group, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336. The criteria required by this section shall take into account the ability of established home delivered meals programs to continue such services without major alteration in the furnishing of such services.

(42 U.S.C. 3030g) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1536; amended December 29, 1981, P.L. 97-115, sec. 10(e), 95 Stat. 1601.

TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS [1]

STATEMENT OF PURPOSE

SEC. 401. It is the purpose of this title to expand the Nation's knowledge and understanding of aging and the aging process, to design and test innovative ideas in programs and services for older individuals, and to help meet the needs for trained personnel in the field of aging through—

(1) placing a priority on the education and training of personnel to work with and on behalf of older individuals;

(2) research and development of effective practices in the field of aging;

(3) demonstration projects directly related to the field of aging; and

(4) dissemination of information on aging and the aging process acquired through such programs to public and private organizations or programs for older individuals.

(42 U.S.C. 3030aa) as added October 9, 1984, P.L. 98-459, sec. 401, 98 Stat. 1781.

ADMINISTRATION

SEC. 402. (a) In order to carry out the provisions of this title effectively, the Commissioner shall administer this title through the Administration on Aging.

(b) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the National Institutes of Health, and such other agencies and departments of the Federal Government as may be appropriate.

(42 U.S.C. 3030bb) As added October 9, 1984, P.L. 98-459, sec. 401, 98 Stat. 1781.

PART A—EDUCATION AND TRAINING

PURPOSE

SEC. 410. The purpose of this part is to improve the quality of service and to help meet critical shortages of adequately trained personnel for programs in the field of aging by—

(1) identifying both short- and long-range manpower needs in the field of aging;

(2) providing a broad range of educational and training opportunities to meet those needs;

(3) attracting a greater number of qualified personnel into the field of aging;

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[1] Title IV was completely revised by the Older Americans Act Amendments of 1981 (P.L. 97-115; 95 Stat. 1595).

(4) helping to upgrade personnel training programs to make them more responsive to the need in the field of aging; and

(5) establishing and supporting multidisciplinary centers of gerontology and providing special emphasis that will improve, enhance, and expand existing training programs.

(42 U.S.C. 3030jj) As added October 9, 1984, P.L. 98-459, sec. 402, 98 Stat. 1781.

GRANTS AND CONTRACTS

SEC. 411. (a) The Commissioner shall make grants and enter into contracts to achieve the purpose of this part. The purposes for which such grants and contracts shall be made include the following:

(1) To provide comprehensive and coordinated nondegree education, training programs, and curricula at institutions of higher education and at other research, training, or educational organizations, for practitioners in the fields of nutrition, health care, supportive services, housing, and long-term care, including the expansion and enhancement of existing inservice education and training programs.

(2) To provide inservice training opportunities to the personnel of State offices, area agencies, senior centers, and nutrition programs to strengthen their capacity to remain responsive to the needs of older individuals.

(3) To provide courses on aging and the dissemination of information about aging to the public through institutions of higher education and other public and nonprofit private organizations and agencies.

(b) To achieve the purpose of this title, the Administration on Aging shall conduct both—

(1) long-term educational activities to prepare personnel for careers in the field of aging; and

(2) short-term inservice training and continuing education activities for State and area agency personnel, and other personnel, in the field of aging or preparing to enter the field of aging.

(c) In making grants and contracts under this part, the Commissioner shall give special consideration to the recruitment and training of personnel, volunteers, and those individuals preparing for employment in that part of the field of aging which relates to providing custodial and skilled care for older individuals who suffer from Alzheimer's disease and other neurological and organic brain disorders of the Alzheimer's type and providing family respite services with respect to such individuals.

(d) In making grants or contracts under this part, the Commissioner shall ensure that all projects and activities related to personnel training shall include specific data on the number of individuals to be trained and the number of older individuals to be served through such training activities by public and nonprofit agencies, State and area agencies on aging, institutions of higher education, and other organizations.

(42 U.S.C. 3031) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1601; amended October 9, 1984, P.L. 98-459, sec. 403, 98 Stat. 1781.

MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

SEC. 412. (a) The Commissioner may make grants to public and private nonprofit agencies, organizations, and institutions for the purpose of establishing or supporting multidisciplinary centers of gerontology, and gerontology centers of special emphasis (including emphasis on nutrition, employment, health, income maintenance and supportive services). Such centers shall conduct research and policy analysis and function as a technical resource for the Commissioner, policymakers, service providers, and the Congress. Multidisciplinary centers of gerontology shall—

(1) recruit and train personnel;

(2) conduct basic and applied research toward the development of information related to aging;

(3) stimulate the incorporation of information on aging into the teaching of biological, behavioral, and social sciences at colleges and universities;

(4) help to develop training programs in the field of aging at schools of public health, education, and other appropriate schools within colleges and universities;

(5) serve as a repository of information and knowledge on aging; and

(6) provide consultation and information to public and voluntary organizations, including State and area agencies, which serve the needs of older individuals in planning and developing services provided under other provisions of this Act.

(b) Centers supported under this section shall provide data to the Commissioner on the projects and activities for which funds are provided under this title. Such data shall include the number of personnel trained, the number of older individuals served, the number of schools assisted, and other information that will facilitate achieving the purposes of this Act.

(42 U.S.C. 3032) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1601; amended October 9, 1984, P.L. 98-459, sec. 404, 98 Stat. 1782.

PART B—RESEARCH, DEMONSTRATIONS, AND OTHER ACTIVITIES

PURPOSE

SEC. 420. The purpose of this part is to improve the quality and efficiency of programs serving older individuals through research and development projects, and demonstration projects, designed to—

(1) develop and synthesize knowledge about aging from multidisciplinary perspectives;

(2) establish an information base of data and practical experience;

(3) examine effective models of planning and practice that will improve or enhance services provided under other provisions of this Act;

(4) evaluate the efficacy, quality, efficiency, and accessibility of programs and services for older individuals; and

(5) develop, implement, and evaluate innovative planning and practice strategies to address the needs, concerns, and capabilities of older individuals.

(42 U.S.C. 3034) As added October 9, 1984, P.L. 98-459, sec. 405, 98 Stat. 1783.

RESEARCH AND DEVELOPMENT PROJECTS

SEC. 421. (a) The Commissioner may make grants to any public or nonprofit private agency, organization, or institution, and may enter into contracts with any agency, organization, institution, or individual to support research and development related to the purposes of this Act, evaluation of the results of such research and development activities, and collection and dissemination of information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this title, and conducting of conferences and other meetings for purposes of exchange of information and other activities related to the purposes of this title. Appropriate provisions for the dissemination of resulting information shall be a requirement for all grants made under this section.

(b) Each research and development activity proposal for which funds are requested under subsection (a) shall include a concise policy or practical application statement.

(c)(1) The Commissioner shall select, to the extent practicable, for assistance under subsection (a) research activities which will, not later than three years after the date of the enactment of the Older Americans Act Amendments of 1984, collectively—

(A) contribute to the establishment and maintenance of a demographic data base which contains information on the population of older individuals generally and older individuals categorized by age, sex, race, geographical location, and such other factors as the Commissioner deems useful for the purpose of formulating public policy;

(B) identify the future needs of older individuals;

(C) identify the kinds and comprehensiveness of programs required to satisfy such needs; and

(D) identify the kinds and number of personnel required to carry out such programs.

(2) The Commissioner shall select, to the extent practicable, for assistance under subsection (a) demonstration projects which test research results and implement innovative ways of satisfying the needs of, and delivering services to, older individuals.

(42 U.S.C. 3035) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1601-1602; amended October 9, 1984, P.L. 98-459, sec. 406, 98 Stat. 1783.

DEMONSTRATION PROJECTS

SEC. 422. (a) The Commissioner may, after consultation with the State agency in the State involved, make grants to any public agency or nonprofit private organization or enter into contracts with any agency or organization within such State for paying part or all of the cost of developing or operating nationwide, statewide, regional, metropolitan area, county, city, or community model projects which will demonstrate methods to improve or expand supportive services or nutrition services or otherwise promote the well-being of older individuals. The Commissioner shall give special consideration to the funding of rural area agencies on aging to conduct model projects devoted to the special needs of the rural elderly.

Such projects shall include alternative health care delivery systems, advocacy and outreach programs, and transportation services.

(b) In making grants and contracts under this section, the Commissioner shall give special consideration to projects designed to—

(1) meet the supportive services needs of elderly victims of Alzheimers' disease and other neurological and organic brain disorders of the Alzheimers' type and their families, including—

(A) home health care for such victims;

(B) adult day health care for such victims; and

(C) homemaker aides, transportation, and in-home respite care for the families, particularly spouses, of such victims;

(2) meet the special health care needs of the elderly, including—

(A) the location of older individuals who are in need of mental health services;

(B) the provision of, or arrangement for the provision of, medical differential diagnoses of older individuals to distinguish between their need for mental health services and other medical care;

(C) the specification of the mental health needs of older individuals, and the mental health and support services required to meet such needs; and

(D) the provision of—

(i) the mental health and support services specified in subclause (C) in the communities; or

(ii) such services for older individuals in nursing homes and intermediate care facilities, and training of the employees of such homes and facilities in the provision of such services;

(3) assist in meeting the special housing needs of older individuals by—

(A) providing financial assistance to such individuals, who own their own homes, necessary to enable them (i) to make the repairs or renovations to their homes, which are necessary for them to meet minimum standards, and (ii) to install security devices, and to make structural modifications or alterations, designed to prevent unlawful entry; and

(B) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older individuals suffering from physical disabilities;

(4) provide education and training to older individuals designed to enable them to lead more productive lives by broadening the education, occupational, cultural, or social awareness of such older individuals;

(5) provide preretirement education information and relevant services (including the training of personnel to carry out such programs and the conduct of research with respect to the development and operation of such programs) to individuals planning retirement;

(6) meet the special needs of, and improve the delivery of services to, older individuals who are not receiving adequate services under other provisions of this Act, with emphasis on the needs of low-income, minority, Indian, and limited English-speaking individuals and the rural elderly;

(7) develop or improve methods of coordinating all available supportive services for the homebound elderly, blind, and disabled by establishing demonstration projects in ten States, in accordance with subsection (c); and

(8) improve transportation systems for the rural elderly.

(c) The Commissioner shall consult with the Commissioner of the Rehabilitation Services Administration, the Commissioner of the Social Security Administration, and the Surgeon General of the Public Health Service, to develop procedures for—

(1) identifying elderly, blind, and disabled individuals who need supportive services;

(2) compiling a list in each community of all services available to the elderly, blind, and disabled; and

(3) establishing an information and referral service within the appropriate community agency to—

(A) inform those in need of the availability of such services; and

(B) coordinate the delivery of such services to the elderly, blind, and disabled.

The Commissioner shall establish procedures for administering demonstration projects under subsection (b)(6) not later than 6 months after the effective date of this subsection. The Commissioner shall report to the Congress with respect to the results and findings of the demonstration projects conducted under this section at the completion of the projects.

(d)(1) Whenever appropriate, grants made and contracts entered into under this section shall be developed in consultation with an appropriate gerontology center.

(2) Grants made and contracts entered into under this section shall include provisions for the appropriate dissemination of project results.

(42 U.S.C. 3035a) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1602-1603; amended October 9, 1984, P.L. 98-459, sec. 407, 98 Stat. 1784.

SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE

SEC. 423. (a)(1) The Commissioner may—

(A) make grants to selected State agencies, designated under section 305(a)(1), and, in consultation with State agencies, selected area agencies on aging designated under section 305(a)(2)(A), institutions of higher education, and other public agencies and nonprofit private organizations; and

(B) enter into contracts with any agency, organization, or institution (except that such contract authority shall be effective for any fiscal year only to such extent, or in such amounts, as are provided in appropriations Acts);

to support the development of comprehensive, coordinated systems of community long-term care for older individuals, with special emphasis upon services designed to support alternatives to institutional living and the assessment of need, the development of a plan of care, and the referral of individuals, in the delivery of long-term care services, including noninstitutional and institutional services, where appropriate.

(2) A grant under this section may be made to pay part or all of the estimated cost of the program (including startup cost) for a period of not more than 3 years, except that no funds may be used to pay for direct services which are eligible for reimbursement under title XVIII, title XIX, or title XX of the Social Security Act.

(3) A grant made under this section shall be used for the development of programs which provide a full continuum of services. Such services may include adult day health care; monitoring and evaluation of service effectiveness; supported living in public and private nonprofit housing; family respite services; preventive health services; home health, homemaker, and other rehabilitative and maintenance in-home services; services provided by geriatric health maintenance organizations; and other services which the Commissioner determines are appropriate, and which, at a minimum, provide for identification and assessment of the long-term care needs of older individuals, referral of such individuals to the appropriate services, and follow-up and evaluation of the continued appropriateness of such services with provision for re-referral as appropriate.

(b)(1) In making grants to States under this section, preference shall be given to applicants which demonstrate that—

(A) adequate State standards have been developed to ensure the quality of services provided;

(B) the State has made a commitment to carry out the program assisted under this section with the State agency responsible for the administration of title XIX of the Social Security Act or title XX of the Social Security Act, or both such agencies;

(C) the State will develop plans to finance the comprehensive program assisted under this section; and

(D) the State agency has a plan for statewide or designated regions of the State containing provisions designed to maximize access by older individuals to long-term care services.

(2) In awarding grants to or entering into contracts with agencies and organizations under this section, preference shall be given to applicants that possess the capability to establish community-based long-term care programs and demonstrate that a need exists for the establishment of such programs in the area to be served.

(3)(A) Agencies and organizations assisted under this section shall establish procedures for evaluating the program assisted under this section, with respect to the benefits accruing to persons receiving assistance, the feasibility of the administrative model used for comprehensive coordination of services including coordination with other local programs, and the comparative costs and quality of services provided, and shall submit such evaluation to the Commissioner on a periodic basis.

(B) Grants made and contracts entered into under this section shall include provisions for the appropriate dissemination of information regarding the development of such services.

(c) The Secretary shall involve appropriate Federal departments and agencies in carrying out the provisions of this section in order to assure coordination at the Federal level and to avoid duplication and shall include in the annual report to the Congress required by section 207, a report on the impact of grants made, or contracts entered into, on the experiences of grantees and contractors in meeting the requirements of this section, and on the comparative benefits and costs of projects assisted under this section.

(d) Sums appropriated to carry out this section shall, to the extent feasible, be used to support programs equitably distributed throughout the Nation between urban and rural areas.

(42 U.S.C. 3035b) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1603-1604; amended October 9, 1984, P.L. 98-459, sec. 408, 98 Stat. 1784.

SPECIAL DEMONSTRATION AND SUPPORT PROJECTS FOR LEGAL ASSISTANCE FOR OLDER INDIVIDUALS

SEC. 424. (a) The Commissioner shall make grants and enter into contracts, in order to—

(1) provide a national legal assistance support system (operated by one or more grantees or contractors) of activities to State and area agencies on aging for providing, developing, or supporting legal assistance for older individuals, including—

(A) case consultations;

(B) training;

(C) provision of substantive legal advice and assistance; and

(D) assistance in the design, implementation, and administration of legal assistance delivery systems to local providers of legal assistance for older individuals; and

(2) support demonstration projects to expand or improve the delivery of legal assistance to older individuals with social or economic needs.

(b) Any grants or contracts made under subsection (a)(2) shall contain assurances that the requirements of section 307(a)(15) are met.

(c) To carry out subsection (a)(1), the Commissioner shall make grants to or enter into contracts with national nonprofit legal assistance organizations experienced in providing support, on a nationwide basis, to local legal assistance providers.

(42 U.S.C. 3035c) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1604-1605; amended October 9, 1984, P.L. 98-459, sec. 409, 98 Stat. 1784.

NATIONAL IMPACT ACTIVITIES

SEC. 425. (a) The Commissioner may carry out directly or through grants or contracts—

(1) innovation and development projects and activities of national significance which show promise of having substantial impact on the expansion or improvement of supportive services, nutrition services, or multipurpose senior centers, or otherwise promoting the well-being of older individuals; and

(2) dissemination of information activities related to such programs.

(b) An amount not to exceed 15 percent of any sums appropriated under section 431 may be used for carrying out this section.

(42 U.S.C. 3035d) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1605; amended October 9, 1984, P.L. 98-459, sec. 410, 98 Stat. 1785.

UTILITY AND HOME HEATING COST DEMONSTRATION PROJECTS

Sec. 426. The Secretary may, after consultation with the appropriate State agency designated under section 305(a)(1), make grants to pay for part or all of the costs of developing model projects which show promise of relieving older individuals of the excessive burdens of high utility service and home heating costs. Any such project shall give special consideration to projects under which a business concern is engaged in providing home heating oil or utility services to low-income older individuals at a cost which is substantially lower than providing home heating oil or utility services to other individuals.

(42 U.S.C. 3035e) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1605; amended October 9, 1984, P.L. 98-459, sec. 410, 98 Stat. 1785.

Part C—General Provisions

AUTHORIZATION OF APPROPRIATIONS

Sec. 431. (a) There are authorized to be appropriated to carry out the provisions of this title $26,600,000 for fiscal year 1984, $28,200,000 for fiscal year 1985, $29,800,000 for fiscal year 1986, and $31,400,000 for fiscal year 1987.

(b) No funds appropriated under this title—

(1) may be transferred to any office or other authority of the Federal Government which is not directly responsible to the Commissioner;

(2) may be used for any program or activity which is not specifically authorized by this title; or

(3) may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this title are separately identified in such grant or payment and are used for the purposes of this title.

(42 U.S.C. 3037) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1605; amended October 9, 1984, P.L. 98-459, sec. 411, 98 Stat. 1785.

PAYMENTS OF GRANTS

Sec. 432. (a) To the extent the Commissioner deems it appropriate, the Commissioner shall require the recipient of any grant or contract under this title to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(b) Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine.

(c) The Commissioner shall make no grant or contract under this title in any State which has established or designated a State agency for purposes of title III unless the Commissioner has consulted with such State agency regarding such grant or contract.

(42 U.S.C. 3037a) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1605-1606; amended October 9, 1984, P.L. 98-459, sec. 412, 98 Stat. 1785.

RESPONSIBILITIES OF COMMISSIONER

SEC. 433. (a) The Commissioner shall be responsible for the administration, implementation, and making of grants and contracts under this title and shall not delegate authority under this title to any other individual, agency, or organization.

(b) The Commissioner shall prepare and publish annually as part of the report provided for in section 207 a detailed description of all grants, contracts, and activities for which funds are paid under this title. Such report shall include the name of the recipient of each such grant or contract, the amount of funds provided for such grant or contract, and a justification of how the funded activity or project will achieve the purpose of this title.

(42 U.S.C. 3037b) As added October 9, 1984, P.L. 98-459, sec. 413, 98 Stat. 1785.

TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS[1]

SHORT TITLE

SEC. 501. This title may be cited as the "Older American Community Service Employment Act".

(42 U.S.C. 3001 note) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 720; redesignated October 18, 1978, P.L. 95-478, sec. 105(a), 92 Stat. 1547.

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

SEC. 502. (a) In order to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older, the Secretary of Labor (hereinafter in this title referred to as the "Secretary") is authorized to establish an older American community service employment program.

(b)(1) In order to carry out the provisions of this title, the Secretary is authorized to enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement the program. No payment shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless the Secretary determines that such project—

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[1] The Comprehensive Older Americans Act Amendments of 1978 (P.L. 95-478; 92 Stat. 1516) repealed title V (relating to multipurpose senior centers) and title VII (relating to nutrition program for the elderly), and redesignated title IX (relating to community service employment for older Americans) as title V. The provisions of titles V and VII were consolidated into title III, as revised by the Comprehensive Older Americans Act Amendments of 1978 (P.L. 95-478; 92 Stat. 1516). The Domestic Volunteer Service Act of 1973 (P.L. 93-113; 87 Stat. 394) repealed title VI (relating to national older Americans volunteer program). The Older Americans Comprehensive Services Amendments of 1973 (P.L. 93-29; 87 Stat. 30) repealed title VIII (relating to general provisions).

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals;

(F)(i) will result in an increase in employment opportunities over those opportunities which would otherwise be available; (ii) will not result in the displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits); and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

(G) will not employ or continue to employ any eligible individual to perform work the same or substantially the same as that performed by any other person who is on layoff;

(H) will utilize methods of recruitment and selection (including listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(I) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(J) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed in community service jobs assisted under this title shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if the participant were not exempt under section 13 thereof, (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(K) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons;

(L) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this title, in accordance with regulations promulgated by the Secretary;

(M) will assure that, to the extent feasible, such project will serve the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State;

(N) will authorize funds to be used, to the extent feasible, to include individuals participating in such project under any State unemployment insurance plan; and

(O) will post in such project workplace a notice, and will make available to each person associated with such project a written explanation, clarifying the law with respect to allowable and unallowable political activities under chapter 15 of title 5, United States Code, applicable to the project and to each category of individuals associated with such project and containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed.

(2) The Secretary is authorized to establish, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this title.

(3) The Secretary shall develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to prime sponsors, labor organizations, groups representing business and industry and workers as well as to individual employers, where appropriate.

(4) The Secretary may enter into an agreement with the Administrator of the Environmental Protection Agency to establish a Senior Environmental Employment Corps.

(c)(1) The Secretary is authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Office of Community Services of the Department of Health and Human Services.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than—

(A) 13.5 percent for fiscal year 1986, and

(B) 12 percent for fiscal year 1987, and thereafter,
shall be available for paying the costs of administration for such project, except that whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based upon information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project.

(d)(1) Whenever a national organization or other program sponsor conducts a project within a State such organization or program sponsor shall submit to the State agency on aging a description of such project to be conducted in the State, including the location of the project, 30 days prior to undertaking the project, for review and comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title.

(2) The Secretary shall review on his own initiative or at the request of any public or private nonprofit agency or organization, or an agency of the State government, the distribution of programs under this title within the State including the distribution between urban and rural areas within the State. For each proposed reallocation of programs within a State, the Secretary shall give notice and opportunity for a hearing on the record by all interested individuals and make a written determination of his findings and decision.

(e)(1) The Secretary, in addition to any other authority contained in this title, shall conduct experimental projects designed to assure second career training and the placement of eligible individuals in employment opportunities with private business concerns. The Secretary shall enter into such agreements with States, public agencies, nonprofit private organizations and private business concerns as may be necessary to conduct the experimental projects authorized by this subsection. The Secretary from amounts reserved under section 506(a)(1)(B) in any fiscal year, may pay all of the costs of any agreements entered into under the provisions of this subsection. The Secretary shall, to the extent feasible, assure equitable geographic distribution of projects authorized by this subsection.

(2) Not later than 90 days after the date of enactment of the Older Americans Act Amendments of 1981, the Secretary shall issue criteria designed to assure that agreements entered into under paragraph (1) of this subsection—

(A) will involve different kinds of work modes, such as flextime, job sharing, and other arrangements relating to reduced physical exertion; and

(B) will emphasize projects involving second careers and job placement and give consideration to placement in growth industries and in jobs reflecting new technological skills.

(3)(A) The Secretary shall carry out an evaluation of the second career training and job placement projects authorized by this subsection.

(B) The evaluation shall include but not be limited to the projects described in paragraph (2).

(C) The Secretary shall prepare and submit, not later than one year after the enactment of the Older Americans Act Amendments of 1981, to the Congress an interim report describing the agreements entered into under paragraph (1) and the design for the evaluation required by this paragraph. The Secretary shall prepare and submit to the President and the Congress a final report on the evaluation required by this paragraph. The Secretary shall prepare and submit to the President and the Congress a final report on the evaluation required by this paragraph not later than February 1, 1984, together with his findings and such recommendations, including recommendations for additional legislation, as the Secretary deems appropriate.

(D) The Secretary shall make the final report submitted under subparagraph (C) available to interested private business concerns.

(4) For the purpose of this subsection, "eligible individual" means any individual who is 55 years of age or older and who has an income equal to or less than the intermediate level retired couples budget as determined annually by the Bureau of Labor Statistics.

(42 U.S.C. 3056) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 720; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(b), 92 Stat. 1547; amended December 29, 1981, P.L. 97-115, secs. 12(a), 12(b)(1), 12(c), 95 Stat. 1606; amended October 9, 1984, P.L. 98-459, sec. 501, 98 Stat. 1786.

ADMINISTRATION

SEC. 503. (a) In order to effectively carry out the provisions of this title, the Secretary shall, through the Commissioner of the Administration on Aging, consult with the State agency on aging designated under section 305(a)(1) and the appropriate area agencies on aging established under section 305(a)(2) with regard to—

(1) the localities in which community service projects of the type authorized by this title are most needed;

(2) consideration of the employment situations and the type of skills possessed by available local individuals who are eligible to participate; and

(3) potential projects and the number and percentage of eligible individuals in the local population.

(b) If the Secretary determines that to do so would increase job opportunities available to individuals under this title, the Secretary is authorized to coordinate the program assisted under this title with programs authorized under the Job Training Partnership Act, the Community Services Block Grant Act, and the Vocational Education Act of 1984. Appropriations under this Act may not be used to carry out any program under the Job Training Partnership Act, the Community Services Block Grant Act, or the Vocational Education Act of 1984.

(c) In carrying out the provisions of this title, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

(d) Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(e) The Secretary shall not delegate any function of the Secretary under this title to any other department or agency of the Federal Government.

(f) In carrying out the provisions of this title, the Secretary may fund and expand projects concerning the Senior Environmental Employment Corps and energy conservation from sums appropriated under section 508 for such fiscal year.

(42 U.S.C. 3056a) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 722; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(c), 92 Stat. 1547; amended December 29, 1981, P.L. 97-115, sec. 12(d), 95 Stat. 1607; amended October 9, 1984, P.L. 98-459, sec. 502, 98 Stat. 1786.

PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 504. (a) Eligible individuals who are employed in any project funded under this title shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

(b) No contract shall be entered into under this title with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the persons employed under the contract shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

(42 U.S.C. 3056b) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 723; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 503(d), 92 Stat. 1547, 1559.

INTERAGENCY COOPERATION

SEC. 505. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Administration on Aging prior to the establishment of rules or the establishment of general policy in the administration of this title.

(b) The Secretary shall consult and cooperate with the Director of the Office of Community Services, the Secretary of Health and Human Services, and the heads of other Federal agencies carrying out related programs, in order to achieve optimal coordination with such other programs. In carrying out the provisions of this section, the Secretary shall promote programs or projects of a similar nature. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this title and in promoting the identification and interests of individuals eligible for employment in projects assisted under this title.

(c) In administering projects under this title concerning the Senior Environmental Employment Corps and energy conservation, the Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Energy and shall enter into an agreement with the Administrator and the Secretary of Energy to coordinate programs conducted by them with such projects.

(42 U.S.C. 3056c) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 723; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(d), 92 Stat. 1547, 1548; amended December 29, 1981, P.L. 97-115, sec. 12(b)(2), 95 Stat. 1606.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 506. (a)(1)(A) Subject to the provisions of paragraph (2), from sums appropriated under this title for each fiscal year, the Secretary shall first reserve such sums as may be necessary for national grants or contracts with public agencies and public or private nonprofit organizations to maintain the level of activities carried on under such grants or contracts at least at the level of such activities supported under this title and under any other provision of Federal law relating to community service employment programs for older Americans in fiscal year 1978. Preference in awarding such grants or contracts shall be given to national organizations of proven ability in providing employment services to older persons under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts, in the aggregate, among the States, taking into account the needs of underserved States.

(B) From sums appropriated under this title for each fiscal year after September 30, 1978, the Secretary shall reserve an amount which is equal to at least 1 per centum but not more than 3 per centum of the amount appropriated in excess of the amount appropriated for fiscal year 1978 for the purpose of entering into agreements under section 502(e), relating to improved transition to private employment.

(2) For each fiscal year in which the sums appropriated under this title exceed the amount appropriated for fiscal year 1978, the Secretary shall reserve not more than 45 per centum of such excess amount for the purpose described in paragraph (1). The Secretary in awarding grants and contracts under such paragraph (1) from such 45 per centum shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts designed to achieve the allotment among the States described in paragraph (3) of this subsection. The remainder of such excess shall be allotted to the appropriate public agency of each State pursuant to paragraph (3).

(3) The Secretary shall allot to the State agency on aging of each State the remainder of the sums appropriated for any fiscal year under section 508 so that each State will receive an amount which bears the same ratio to such remainder as the product of the number of persons aged fifty-five or over in the State and the allotment percentage of such State bears to the sum of the corresponding product for all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the remainder of the sums appropriated for the fiscal year for which the determination is made, or $100,000, whichever is greater, and (B) Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount which is not less than one-fourth of 1 per centum of the remainder of the sums appropriated for the

fiscal year for which the determination is made, or $50,000, whichever is greater. For the purpose of the exception contained in this paragraph the term "State" does not include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(4) For the purpose of this subsection—

(A) the allotment percentage of each State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (i) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (ii) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 75 per centum;

(B) the number of persons aged fifty-five or over in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to him; and

(C) for the purpose of determining the allotment percentage, the term "United States" means the fifty States and the District of Columbia.

(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State.

(d) The Secretary shall require the State agency for each State receiving funds under this title to report at the beginning of each fiscal year on such State's compliance with subsection (c). Such report shall include the names and geographic location of all projects assisted under this title and carried out in the State and the amount allotted to each such project.

(42 U.S.C. 3056d) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 723; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(e), 92 Stat. 1547, 1548; amended December 29, 1981, P.L. 97-115, sec. 12(e), 95 Stat. 1607; amended October 9, 1984, P.L. 98-459, sec. 503, 98 Stat. 1787.

DEFINITIONS

SEC. 507. As used in this title—

(1) the term "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Trust Territory of the Pacific Islands;

(2) the term "eligible individual" means an individual who is fifty-five years old or older, who has a low income (including any such individual whose income is not more than 125 per centum of the poverty guidelines established by the Bureau of Labor Statistics), except that, pursuant to regulations prescribed by the Secretary, any such individual who is sixty years old or older shall have priority for the work opportunities provided for under this title;

(3) the term "community service" means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; weatherization activities; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe; and

(4) the term "program" means the older American community service employment program established under this title.

(42 U.S.C. 3056e) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 724; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(f), 92 Stat. 1547, 1548; amended December 29, 1981, P.L. 97-115, sec. 12(f), 95 Stat. 1607; amended October 9, 1984, P.L. 98-459, sec. 503, 98 Stat. 1787.

AUTHORIZATION OF APPROPRIATIONS

SEC. 508. (a) There is authorized to be appropriated to carry out this title—

(1) $319,450,000 for fiscal year 1984, $335,000,000 for fiscal year 1985, $351,400,000 for fiscal year 1986, and $368,300,000 for fiscal year 1987; and

(2) such additional sums as may be necessary for each such fiscal year to enable the Secretary, through programs under this title, to provide for at least 62,500 part-time employment positions for eligible individuals.

For purposes of clause (2), "part-time employment position" means an employment position within a workweek of at least 20 hours.

(b) Amounts appropriated under this section for any fiscal year shall be used during the annual period which begins on July 1 of the calendar year immediately following the beginning of such fiscal year and which ends on June 30 of the following calendar year. The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency receiving funds under this title if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency. Any such extension shall be for a period of not more than 60 days after the end of such annual period.

(42 U.S.C. 3056f) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 725; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(g), 92 Stat. 1547, 1548; amended December 29, 1981, P.L. 97-115, sec. 12(g), 95 Stat. 1607-1608; amended October 9, 1984, P.L. 98-459, sec. 504, 98 Stat. 1787.

TITLE VI—GRANTS FOR INDIAN TRIBES

STATEMENT OF PURPOSE

SEC. 601. It is the purpose of this title to promote the delivery of supportive services, including nutritional services, for Indians that are comparable to services provided under title III.

(42 U.S.C. 3057) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1549.

ELIGIBILITY

SEC. 602. (a) A tribal organization of an Indian tribe is eligible for assistance under this title only if—

(1) the tribal organization represents at least 60 individuals who have attained 60 years of age or older;

(2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services; and

(3) individuals to be served by the tribal organization will not receive for the year for which application under this title is made, services under title III.

(b) The terms "Indian tribe" and "tribal organization" for the purposes of this title are defined as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(42 U.S.C. 3057a) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1549; amended October 9, 1984, P.L. 98-459, sec. 601, 98 Stat. 1787.

GRANTS AUTHORIZED

SEC. 603. The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of supportive services and nutritional services for older Indians.

(42 U.S.C. 3057b) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1549; amended December 29, 1981, P.L. 97-115, sec. 13(a), 95 Stat. 1608.

APPLICATIONS

SEC. 604. (a) No grant may be made under this title unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

(1) provide that the eligible tribal organization will evaluate the need for social[1] and nutritional services among older Indians to be represented by the tribal organization;

(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

(3) provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such

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[1] Should be amended to strike "social" and insert "supportive".

requirements as the Commissioner may impose to assure the correctness of such reports;

(4) provide for periodic evaluation of activities and projects carried out under the application;

(5) establish objectives consistent with the purposes of this title toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

(6) provide for establishing and maintaining information and referral services to assure that older Indians to be served by the assistance made available under this title will have reasonably convenient access to such services;

(7) provide a preference for Indians aged 60 and older for full or part-time staff positions wherever feasible;

(8) provide assurances that either directly or by way of grant or contract with appropriate entities nutritional services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older Indians represented by the tribal organization is already met from other sources, the tribal organization may use the funds otherwise required to be expended under this clause for supportive services;

(9) contain assurances that the provisions of sections 307(a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

(10) provide that any legal or ombudsman services made available to older Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services; and

(11) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

(b) For the purpose of any application submitted under this title, the tribal organization may develop its own population statistics, with certification from the Bureau of Indian Affairs, in order to establish eligibility.

(c) The Commission shall approve any application which complies with the provisions of subsection (a).

(d) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commissioner shall—

(1) state objections in writing to the tribal organization within 60 days after such decision;

(2) provide to the extent practicable technical assistance to the tribal organization to overcome such stated objections; and

(3) provide the tribal organization with a hearing, under such rules and regulations as the Commissioner may prescribe.

(e) Whenever the Commissioner approves an application of a tribal organization under this title, funds shall be awarded for not less than 12 months, during which time such tribal organization may not receive funds under title III.

(42 U.S.C. 3057c) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1549; amended December 29, 1981, P.L. 97-115, sec. 13(b), 95 Stat. 1608; amended October 9, 1984, P.L. 98-459, sec. 602, 98 Stat. 1788.

ADMINISTRATION

SEC. 605. In establishing regulations for the purpose of this title the Commissioner shall consult with the Secretary of the Interior.

(42 U.S.C. 3057d) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1551; amended December 29, 1981, P.L. 97-115, sec. 13(c), 95 Stat. 1608.

SURPLUS EDUCATIONAL FACILITIES

SEC. 606. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutritional services, child care services, and other supportive services.

(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and in such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

(42 U.S.C. 3057e) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1551; amended December 29, 1981, P.L. 97-115, sec. 3(d), 95 Stat. 1597.

PAYMENTS

SEC. 607. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such installments and on such conditions, as the Commissioner may determine.

(42 U.S.C. 3057f) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1551.

AUTHORIZATION OF APPROPRIATIONS

SEC. 608. (a) There are authorized to be appropriated, $7,500,000 for fiscal year 1984, $7,900,000 for fiscal year 1985, $8,300,000 for fiscal year 1986, and $8,600,000 for fiscal year 1987 to carry out the provisions of this title other than section 606.

(b) For any fiscal year in which less than $5,000,000 is appropriated under subsection (a) tribal organizations are authorized to receive assistance in accordance with the provisions of title III.

(42 U.S.C. 3057g) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1551; amended December 29, 1981, P.L. 97-115, sec. 13(d), 95 Stat. 1608; amended October 9, 1984, P.L. 98-459, sec. 603, 98 Stat. 1788.

TITLE VII—OLDER AMERICANS PERSONAL HEALTH EDUCATION AND TRAINING PROGRAM

SHORT TITLE

SEC. 701. This title may be cited as the "Older Americans Personal Health Education and Training Act".

(42 U.S.C. 3058 note) As added October 9, 1984, P.L. 98-459, sec. 701, 98 Stat. 1788.

FINDINGS

SEC. 702. The Congress hereby finds that—

(1) individuals 60 years of age or older constitute the fastest growing segment of the Nation's population;

(2) the process of aging, as well as the changes in lifestyle which accompany it, such as retirement, the end of parenting roles, and relocation, seem to increase and exacerbate health problems faced by older individuals (such health problems include physical, mental, and emotional health problems);

(3) many of the health problems faced by individuals 60 years of age or older, such as arteriosclerosis, arthritis, adult-onset diabetes, hypothermia, heat stress, Alzheimer's disease, circulatory problems, hypertension, diminished hearing and eyesight, reduced strength, social isolation, and bone fragility are particularly common to the older American population;

(4) although older individuals make up only 11 percent of our population, they consume 29 percent of the total health care expenditures and 50.5 percent of Federal health care (non-military) expenditures, and as our population ages the percentage of Federal health care dollars absorbed by older individuals will inevitably increase;

(5) older individuals consume more prescription and over-the-counter drugs than any other age group and are therefore more likely to be exposed to two or more active drugs which negatively interact;

(6) many of the health problems faced by older individuals and the fear of those health problems can be ameliorated and in some cases prevented if proper health education and training is available.

(7) health education and training focused specifically on the needs of older individuals can play an important role in health promotion and illness prevention and simultaneously help reduce medical costs for both individuals and the Government;

(8) the educational institutions of public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, and gerontology have much to offer in the design and implementation of health education and training services for older individuals; and

(9) the existing 3,300 mulitpurpose senior centers established under this Act which already serve over 9,000,000 older individuals each year, are appropriate points of contact from which health education and training can be provided, but there is currently no uniform, standardized program consistently in place across the Nation.

(42 U.S.C. 3058) As added October 9, 1984, P.L. 98-459, sec. 701, 98 Stat. 1788.

PURPOSES

SEC. 703. The purposes of this title are to provide the necessary resources, leadership, and coordination (1) to design a uniform, standardized program of health education and training for older individuals; (2) to directly involve graduate educational institutions of public health in the design of such program; (3) to directly involve the graduate educational institutions of public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, and gerontology in the implementation of such program; (4) to implement such program in multipurpose senior centers established under this Act; and (5) to evaluate such program.

(42 U.S.C. 3058a) As added October 9, 1984, P.L. 98-459, sec. 701, 98 Stat. 1789.

OLDER AMERICANS PERSONAL HEALTH EDUCATION AND TRAINING PROGRAM

SEC. 704. (a) In order to foster and promote the design and implementation of a health education and training program for individuals who are 60 years of age or older, the Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") shall establish an older individuals personal health education and training program within the Administration on Aging.

(b)(1) In order to carry out the provisions of this title, the Secretary, through the Administration on Aging, shall make grants and enter into contracts with public or private institutions of higher education having graduate programs with capability in public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, or gerontology in order to achieve the purposes of this title. No payment shall be made by the Secretary toward the cost of any such project established or administered by any such institution unless the Secretary determines that such project—

(A) will provide for the design and implementation of a local or statewide demonstration health education and training program which is amenable to replication in multipurpose senior centers, as well as other sites convenient to older individuals;

(B) will provide for consultation with and utilization of multipurpose senior centers established under section 321(b)(1) with regard to the provision of services to meet the specific needs of older individuals;

(C) will be generally applicable to the health needs of all individuals 60 years of age or older;

(D) will provide for the development of components appropriate for uniform, standardized use relating to specific problems encountered by older individuals, such as diet, mental health, physical fitness, hypertension, retirement, health insurance, hypothermia, and legal advice concerning rights to live and to receive medical treatment;

(E) will provide health education in the safe and effective use of prescription and nonprescription medicines;

(F) will address the motivation of older individuals including consideration of the elements of self-responsibility, physical fitness, stress management, nutrition, and environmental awareness; and the benefits older individuals can derive from behavioral and lifestyle modifications within their individual control;

(G) will provide for peer contract and interaction among participating older individuals;

(H) will provide for the training and utilization of graduate students (including the consideration of the granting of course credit to such students) and faculty in the fields of public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, and gerontology;

(I) will provide for the training and utilization of older individuals participating in such projects as volunteers;

(J) will ensure that participating older individuals are made aware of the health services available to them in their communities;

(K) will be designed in consulation with persons specifically competent in the field of public health;

(L) with regard to the provision of services, will be designed in consultation with each area agency on aging located in the geographic area to be served by such project with specific attention to State and area agency replication under section 307(f);

(M) will demonstrate the ability of those who carry out such project to generate multidisciplinary working relationships with other groups in relevant fields, including the medical sciences, mental health, pharmacology, nursing, social work, health education, nutrition, and gerontology;

(N) will provide for coordination with the State agency designated under section 305(a)(1) and State health officials in the State in which such project is carried out; and

(O) will implement health education and training activity in at least 10 separate sites.

(2) The Secretary shall establish, issue, and amend such regulations as may be necessary to effectively carry out this title.

(c)(1) The Secretary shall pay not to exceed 90 percent of the cost of any project which is the subject of a contract entered into under subsection (b).

(2) The remaining cost of such project shall be provided from non-Federal sources, in cash or in-kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair-market value to services and facilities contributed from non-Federal sources.

(3) In considering grant or contract applications under this title, the Secretary shall—

(A) give priority to grants and contracts smaller than $150,000; and

(B) to the extent practicable, ensure an equitable geographical distribution in the awarding of such grants or contracts, including an appropriate consideration of both urban and rural needs.

(d)(1) The Secretary shall prepare and submit to the Congress, not later than October 1, 1985, an interim report describing the projects approved under subsection (b) and a design for the evaluation of such projects.

(2) Not later than October 1, 1986, the Secretary shall prepare and disseminate, through the Commissioner, to State agencies on aging information and materials relating to projects conducted under this title, including uniform, standardized components of a program of health and nutrition education.

(3) The Secretary shall prepare and submit to the President and the Congress a final report on the projects approved under subsection (b) not later than February 1, 1987, along with such findings and recommendations as the Secretary deems appropriate.

(42 U.S.C. 3058b) As added October 9, 1984, P.L. 98-459, sec. 701, 98 Stat. 1789.

ADMINISTRATION

SEC. 705. (a) In carrying out this title, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and to cooperate on a similar basis with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

(b) Payments under this title may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

(c) Except as provided in section 704(d), the Secretary shall not delegate any function of the Secretary under this title to any other department or agency of the United States.

(42 U.S.C. 3058c) As added October 9, 1984, P.L. 98-459, sec. 701, 98 Stat. 1791.

AUTHORIZATION OF APPROPRIATIONS

SEC. 706. (a) There are authorized to be appropriated to carry out this title $8,550,000 for fiscal year 1985 and such sums as may be necessary for fiscal years 1986 and 1987.

(b) Amounts appropriated under this section for any fiscal year shall remain available for obligation until expended.

(42 U.S.C. 3058d) As added October 9, 1984, P.L. 98-459, sec. 701, 98 Stat. 1791.

OLDER AMERICANS ACT AMENDMENTS OF 1984

(Public Law 98-459)

AN ACT To extend the authorization of appropriations for, and to revise the Older Americans Act of 1965.

SHORT TITLE

SECTION 1. This Act may be cited as the "Older Americans Act Amendments of 1984".

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STUDY OF OLDER AMERICAN COMMUNITY SERVICE PROGRAMS

SEC. 505. The Secretary of Labor shall conduct a study to identify additional mechanisms, supplementing the existing program under the Act, to increase community service employment opportunities for eligible individuals. Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall submit to the Congress a report describing the results of such study and proposing draft legislation which, if enacted by the Congress, would increase such employment opportunities.

(42 Stat. 3056 note) Enacted October 9, 1984, 98 Stat. 1787.

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OLDER AMERICANS AMENDMENTS OF 1975

(Public Law 94-135)

AN ACT To amend the Older Americans Act of 1965 to establish certain social services programs for older Americans and to extend the authorizations of appropriations contained in such Act, to prohibit discrimination on the basis of age, and for other purposes.

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TITLE III—PROHIBITION OF DISCRIMINATION BASED ON AGE

SHORT TITLE

SEC. 301. The provisions of this title may be cited as the "Age Discrimination Act of 1975".

(42 U.S.C. 6101 note) Enacted November 28, 1975, P.L. 94-135, sec. 301, 89 Stat. 728.

STATEMENT OF PURPOSE

SEC. 302. It is the purpose of this title to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.).

(42 U.S.C. 6101) Enacted November 28, 1975, P.L. 94-135, sec. 302, 89 Stat. 728; amended October 18, 1978, P.L. 95-478, sec. 401(a), 92 Stat. 1555.

PROHIBITION OF DISCRIMINATION

SEC. 303. Pursuant to regulations prescribed under section 304, and except as provided by section 304(b) and section 304(c), no person in the United States shall, on the basis of age, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(42 U.S.C. 6102) Enacted November 28, 1975, P.L. 94-135, sec. 303, 89 Stat. 728.

REGULATIONS

SEC. 304. (a)(1) Not later than one year after the transmission of the report required by section 307(b), or two and one-half years after the date of the enactment of this Act, whichever occurs first, the Secretary of Health, Education, and Welfare shall publish in the Federal Register proposed general regulations to carry out the provisions of section 303.

(2)(A) The Secretary shall not publish such proposed general regulations until the expiration of a period comprised of—

(i) the forty-five day period specified in section 307(e); and

(ii) an additional forty-five day period, immediately following the period described in clause (i), during which any committee of the Congress having jurisdiction over the subject matter involved may conduct hearings with respect to the report which the Commission is required to transmit under section 307(d), and with respect to the comments and recommendations submitted by Federal departments and agencies under section 307(e).

(B) The forty-five day period specified in subparagraph (A)(ii) shall include only days during which both Houses of the Congress are in session.

(3) Not later than ninety days after the Secretary publishes proposed regulations under paragraph (1), the Secretary shall publish in the Federal Register final general regulations to carry out the provisions of section 303, after taking into consideration any comments received by the Secretary with respect to the regulations proposed under paragraph (1).

(4) Not later than ninety days after the Secretary publishes final general regulations under paragraph (a)(3), the head of each Federal department or agency which extends Federal financial assistance to any program or activity by way of grant, entitlement, loan, or contract other than a contract of insurance or guaranty, shall transmit to the Secretary and publish in the Federal Register proposed regulations to carry out the provisions of section 303 and to provide appropriate investigative, conciliation, and enforcement procedures. Such regulations shall be consistent with the final general regulations issued by the Secretary, and shall not become effective until approved by the Secretary.

(5) Notwithstanding any other provision of this section, no regulations issued pursuant to this section shall be effective before July 1, 1979.

(b)(1) It shall not be a violation of any provision of this title, or of any regulation issued under this title, for any person to take any action otherwise prohibited by the provisions of section 303 if, in the program or activity involved—

(A) such action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of such program or activity; or

(B) the differentiation made by such action is based upon reasonable factors other than age.

(2) The provisions of this title shall not apply to any program or activity established under authority of any law which (A) provides any benefits or assistance to persons based upon the age of such persons; or (B) establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms.

(c)(1) Except with respect to any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act of 1974 [1] (29

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[1] The original short title of the statute was the "Comprehensive Employment and Training Act of 1973". As amended by the Comprehensive and Training Act Amendments of 1978 (P.L. 95-514, 92 Stat. 1909), this statute now is referred to as the "Comprehensive Employment and Training Act".

U.S.C. 801, et seq.), as amended, nothing in this title shall be construed to authorize action under title by any Federal department or agency with respect to any employment practice of any employer, employment agency, or labor organization, or with respect to any labor-management joint apprenticeship training program.

(2) Nothing in this title shall be construed to amend or modify the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621-634), as amended, or to affect the rights or responsibilities of any person or party pursuant to such Act.

(42 U.S.C. 6103) Enacted November 28, 1975, P.L. 94-135, sec. 304, 89 Stat. 729; amended October 18, 1978, P.L. 95-478, sec. 401(b), 92 Stat. 1555.

ENFORCEMENT

Sec. 305. (a) The head of any Federal department or agency who prescribes regulations under section 304 may seek to achieve compliance with any such regulation—

(1) by terminating, or refusing to grant or to continue, assistance under the program or activity involved to any recipient with respect to whom there has been an express finding on the record, after reasonable notice and opportunity or hearing, of a failure to comply with any such regulation; or

(2) by any other means authorized by law.

(b) Any termination of, or refusal to grant or to continue, assistance under subsection (a)(1) shall be limited to the particular political entity or other recipient with respect to which a finding has been made under subsection (a)(1). Any such termination or refusal shall be limited in its effect to the particular program or activity, or part of such program or activity, with respect to which such finding has been made. No such termination or refusal shall be based in whole or in part on any finding with respect to any program or activity which does not receive Federal financial assistance. Whenever the head of any Federal department or agency who prescribes regulations under section 304 withholds funds pursuant to subsection (a), he may, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency, or State or political subdivision thereof, which demonstrates the ability to achieve the goals of the Federal statute authorizing the program or activity while complying with regulations issued under section 304.

(c) No action may be taken under subsection (a) until the head of the Federal department or agency involved has advised the appropriate person of the failure to comply with the regulation involved and has determined that compliance cannot be secured by voluntary means.

(d) In the case of any action taken under subsection (a), the head of the Federal department or agency involved shall transmit a written report of the circumstances and grounds of such action to the committees of the House of Representatives and the Senate having legislative jurisdiction over the program or activity involved. No such action shall take effect until thirty days after the transmission of any such report.

(e)(1) When any interested person brings an action in any United States district court for the district in which the defendant is found or transacts business to enjoin a violation of this Act by any program or activity receiving Federal financial assistance, such interested person shall give notice by registered mail not less than thirty days prior to the commencement of that action to the Secretary of Health, Education, and Welfare, the Attorney General of the United States, and the person against whom the action is directed. Such interested person may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fees, in which case the court shall award the cost of suit, including a reasonable attorney's fee, to the prevailing plaintiff.

(2) The notice referred to in paragraph (1) shall state the nature of the alleged violation, the relief to be requested, the court in which the action will be brought, and whether or not attorney's fees are being demanded in the event that the plaintiff prevails. No action described in paragraph (1) shall be brought (A) if at the time the action is brought the same alleged violation by the same defendant is the subject of a pending action in any court of the United States; or (B) if administrative remedies have not been exhausted.

(f) With respect to actions brought for relief based on an alleged violation of the provisions of this title, administrative remedies shall be deemed exhausted upon the expiration of 180 days from the filing of an administrative complaint during which time the Federal department or agency makes no finding with regard to the complaint, or upon the day that the Federal department or agency issues a finding in favor of the recipient of financial assistance, whichever occurs first.

(42 U.S.C. 6104) Enacted November 28, 1975, P.L. 94-135, sec. 305, 89 Stat. 730; amended October 18, 1978, P.L. 95-478, secs. 401(c), 401(d), 92 Stat. 1555-1556.

JUDICIAL REVIEW

SEC. 306. (a) Any action by any Federal department or agency under setion 305 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by any such department or agency on other grounds.

(b) In the case of any action by any Federal department or agency under section 305 which is not otherwise subject to judicial review, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with the provisions of chapter 7 of title 5, United States Code. For purposes of this subsection, any such action shall not be considered committed to unreviewable agency discretion within the meaning of section 701(a)(2) of such title.

(42 U.S.C. 6105) Enacted November 28, 1975, P.L. 94-135, sec. 306, 89 Stat. 730.

STUDY OF DISCRIMINATION BASED ON AGE

SEC. 307. (a) The Commission on Civil Rights shall (1) undertake a study of unreasonable discrimination based on age in programs and activities receiving Federal financial assistance; and (2) identify with particularity any such federally assisted program or activity in which there is found evidence of persons who are otherwise qualified being, on the basis of age, excluded from participation in, denied the benefits of, or subjected to discrimination under such program or activity.

(b) As part of the study required by this section, the Commission shall conduct public hearings to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance, and particularly with respect to the reasonableness of distinguishing, on the basis of age, among potential participants in, or beneficiaries of, specific federally assisted programs.

(c) The Commission is authorized to obtain, through grant or contract, analyses, research and studies by independent experts of issues relating to age discrimination and to publish the results thereof. For purposes of the study required by this section, the Commission may accept and utilize the servcies of voluntary or uncompensated personnel, without regard to the provisions of section 105(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(b)).

(d) Not later than two years after the date of the enactment of this Act, the Commission shall transmit a report of its findings and its recommendations for statutory changes (if any) and administrative action, including suggested general regulations, to the Congress and to the President and shall provide a copy of its report to the head of each Federal department and agency with respect to which the Commission makes findings or recommendations. The Commission is authorized to provide, upon request, information and technical assistance regarding its findings and recommendations to Congress, to the President, and to the heads of Federal departments and agencies for a ninety-day period following the transmittal of its report.

(e) Not later than forty-five working days after receiving a copy of the report required by subsection (d), each Federal department or agency with respect to which the Commission makes findings or recommendations shall submit its comments and recommendations regarding such report to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives.

(f) The head of each Federal department or agency shall cooperate in all respects with the Commission with respect to the study required by subsection (a), and shall provide to the Commission such data, reports, and documents in connection with the subject matter of such study as the Commission may request.

(g) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(42 U.S.C. 6106) Enacted November 28, 1975, P.L. 94-135, sec. 307, 89 Stat. 731; amended July 11, 1977, P.L. 95-65, first section, 91 Stat. 269.

REPORTS

SEC. 308. (a) Not later than December 31 of each year (beginning in 1979), the head of each Federal department or agency shall submit to the Secretary of Health, Education, and Welfare a report (1) describing in detail the steps taken during the preceding fiscal year by such department or agency to carry out the provisions of section 303; and (2) containing specific data about program participants or beneficiaries, by age, sufficient to permit analysis of how well the department or agency is carrying out the provisions of section 303.

(b) Not later than March 31 of each year (beginning in 1980), the Secretary of Health, Education, and Welfare shall compile the reports made pursuant to subsection (a) and shall submit them to the Congress, together with an evaluation of the performance of each department or agency with respect to carrying out the provisions of section 303.

(42 U.S.C. 6106a) As added October 18, 1978, P.L. 95-478, sec. 401(e), 92 Stat. 1556.

DEFINITIONS

SEC. 309. For purposes of this title—

(1) the term "Commission" means the Commission on Civil Rights;

(2) the term "Secretary" means the Secretary of Health, Education, and Welfare; and

(3) the term "Federal department or agency" means any agency as defined in section 551 of title 5, United States Code, and includes the United States Postal Service and the Postal Rate Commission.

(42 U.S.C. 6107) Enacted November 28, 1975, P.L. 94-135, sec. 308, 89 Stat. 731; redesignated October 18, 1978, P.L. 95-478, sec. 401(e), 92 Stat. 1556.

COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

(Public Law 95-478)

AN ACT To amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other persons.

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TITLE II—WHITE HOUSE CONFERENCE ON AGING

SHORT TITLE

SEC. 201. This title may be cited as the "1981 White House Conference on Aging Act".

(42 U.S.C. 3001 note) Enacted October 18, 1978, P.L. 95-478, sec. 201, 92 Stat. 1551.

FINDINGS AND POLICY

SEC. 202. (a) The Congress finds that—

(1) the number of individuals fifty-five years of age or older was approximately 43,000,000 in 1976, and will, by the end of this century, be over 57,000,000;

(2) nearly 5,200,000 individuals fifty-five years of age or older had incomes below the poverty level in 1976, as determined by the Federal Government;

(3) there is a great need to improve the economic well-being of older individuals;

(4) there is a great need to make comprehensive and quality health care more readily available to older individuals;

(5) there is a great need for expanding the availability of suitable and reasonably priced housing for older individuals, together with sevices needed for independent or semi-independent living;

(6) there is a great need for a more comprehensive and effective social service delivery system for older individuals;

(7) there is a great need for a more comprehensive long-term care policy responsive to the needs of older patients and their families;

(8) there is a great need to promote greater employment opportunities for middle-aged and older individuals who want or need to work;

(9) there is a great need to develop a national retirement policy that contributes to the fulfillment, dignity, and satisfaction of retirement years for older individuals;

(10) there is a great need for a national policy with respect to increasing, coordinating, and expediting biomedical and other appropriate research directed at determining the causes of the aging process; and

(11) false stereotypes about aging and the process of aging are prevalent throughout the Nation and policies should be developed to overcome such stereotypes.

(b)(1) It is the policy of the Congress that the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenges and needs of older individuals, consistent with the objectives of this title.

(2) In developing programs for the aging pursuant to this title, emphasis should be placed upon the right and obligation of older individuals to free choice and self-help in planning their own future.

(42 U.S.C. 3001 note) Enacted October 18, 1978, P.L. 95-478, sec. 202, 92 Stat. 1551.

AUTHORITY OF THE PRESIDENT AND SECRETARY; FINAL REPORT

SEC. 203. (a) The President may call a White House Conference on Aging in 1981 in order to develop recommendations for further research and action in the field of aging which will further the policies set forth in section 202. The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner on Aging and the Director of the National Institute on Aging, and the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(b) For the purpose of arriving at facts and recommendations concerning the utilization of skills, experience, and energies and the improvement of the conditions of older individuals, the Conference shall bring together representatives of Federal, State, and local governments, professional and lay people who are working in the field of aging (including researchers on problems of the elderly and the process of aging), and representatives of the general public, including older individuals.

(c) A final report of the Conference, which shall include a statement of a comprehensive coherent national policy on aging together with recommendations for the implementation of the policy shall be submitted to the President not later than 180 days following the date on which the Conference is adjourned. The findings and recommendations included in the report shall be immediately available to the public. The Secretary shall, within 90 days after submission of the report, transmit to the President and to the Congress his recommendations for administrative action and the legislation necessary to implement the recommendations contained in the report.

(42 U.S.C. 3001 note) Enacted October 18, 1978, P.L. 95-478, sec. 203, 92 Stat. 1552.

ADMINISTRATION

SEC. 204. (a) In administering this title the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in carrying out the provisions of this title;

(2) render all reasonable assistance, including financial assistance, to State agencies on the aging and to area agencies on

aging, and to other appropriate organizations to enable them to organize and conduct conferences on aging prior to the Conference;

(3) prepare and make available background materials for the use of delegates to the Conference which he deems necessary, and prepare and distribute any such report of the Conference as may be necessary and appropriate; and

(4) engage such additional personnel as may be necessary to carry out the provisions of this title without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) In carrying out his functions under clause (2) of subsection (a) the Secretary shall assure the conferences will be so conducted as to assure broad participation of older individuals.

(c) In carrying out his responsibilities under this title the Secretary shall assure that current and adequate statistical data and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to participants in the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out the requirements of this subsection, the Secretary may make grants to, and enter into contracts with, public agencies and nonprofit private organizations.

(42 U.S.C. 3001 note) Enacted October 18, 1978, P.L. 95-478, sec. 204, 92 Stat. 1553.

ADVISORY COMMITTEES

SEC. 205. (a) The Secretary shall establish an advisory committee to the Conference which shall include representation from the Federal Council on Aging and other public agencies and private nonprofit organizations as appropriate. The Secretary shall establish such other committees, including technical committees, as may be necessary to assist in planning, conducting, and reviewing the Conference. Each such committee shall be composed of professional and public members and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be 55 years of age or older.

(b) Appointed members of any such committee (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary but not to exceed the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons in Federal Government service employed intermittently.

(42 U.S.C. 3001 note) Enacted October 18, 1978, P.L. 95-478, sec. 205, 92 Stat. 1553.

DEFINITIONS

SEC. 206. For the purpose of this title—

(1) The term "area agency on aging" means the agency designated under section 305(a)(2)(A) of the Older Americans Act of 1965.

(2) The term "State agency on aging" means the agency designated under 305(a)(1)[1] of the Older Americans Act of 1965.

(3) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(4) The term "Conference" means the White House Conference on Aging authorized in section 203(a).

(5) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(42 U.S.C. 3001 note) Enacted October 18, 1978, P.L. 95-478, sec. 206, 92 Stat. 1554.

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. There are authorized to be appropriated such sums as may be necessary, for fiscal years 1979, 1980, and 1981, to carry out the provisions of this title.[2]

(42 U.S.C. 3001 note) Enacted October 18, 1978, P.L. 95-478, sec. 207, 92 Stat. 1554.

TITLE III—STUDY OF RACIAL AND ETHNIC DISCRIMINATION IN PROGRAMS FOR OLDER AMERICANS

STUDY AUTHORIZED

SEC. 301. (a) The Commission on Civil Rights shall (1) undertake a comprehensive study of discrimination based on race or ethnic background in any federally-assisted programs and activities which affect older individuals; and (2) identify with particularity any such federally-assisted program or activity in which evidence is found of individuals or organizations who are otherwise qualified being, on the basis of race or ethnic background, excluded from participation in, denied the benefits of, refused employment or contracts with, or subject to discrimination under, such program or activity.

(b) As part of the study required by this section, the Commission shall conduct public hearings to elicit the views of interested parties, including the heads of Federal departments and agencies, on issues relating to racial or ethnic discrimination in programs and activities affecting older individuals receiving Federal financial assistance, and particularly with respect to discrimination among potential participants in, or beneficaries of, specific federally-assisted programs.

(42 U.S.C. 1975c note) Enacted October 18, 1978, P.L. 95-478, sec. 301, 92 Stat. 1554.

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[1] So in original. Should read "under section 305(a)(1)".

[2] Section 15 of the Older Americans Act Amendments of 1981 (P.L. 97-115; 95 Stat. 1608) provided that sums appropriated under section 207 for fiscal year 1981 shall remain available for fiscal year 1982.

ADMINISTRATIVE PROVISIONS

SEC. 302. (a)(1) The Commission may obtain, through grant or contract, analysis, research, and studies by independent experts of issues relating to racial and ethnic discrimination in aging programs and activities and publish the results thereof.

(2) For purposes of the study required by section 301, the Commission may accept and utilize the services of voluntary or uncompensated personnel, without regard to the provisions of section 105(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975(b)).

(b) The head of each Federal department or agency shall cooperate in all respects with the Commission with respect to the study required by section 301, and shall provide to the Commission such data, reports, and documents in connection with the subject matter of such study as the Commission may request.

(42 U.S.C. 1975c note) Enacted October 18, 1979, P.L. 95-478, sec. 302, 92 Stat. 1554.

REPORTS

SEC. 303. (a) Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit a report of its findings and its recommendations for any statutory changes and administrative action, including suggested general regulations, to the Congress and to the President. The Commission shall provide a copy of its report to the head of each Federal department or agency with respect to which the Commission makes findings or recommendations.

(b) Not later than 45 working days after receiving a copy of the report required by subsection (a), the head of each Federal department or agency with respect to which the Commission makes its recommendations or findings shall submit his comments and recommendations regarding such report to the President and to the appropriate committees of the Congress.

(42 U.S.C. 1975c note) Enacted October 18, 1978, P.L. 95-478, sec. 303, 92 Stat. 1555.

AUTHORIZATION OF APPROPRIATIONS

SEC. 304. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(42 U.S.C. 1975c note) Enacted October 18, 1978, P.L. 95-478, sec. 304, 92 Stat. 1555.

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TITLE V—MISCELLANEOUS PROVISIONS

REPEALERS; EXISTING PROJECTS

SEC. 501. (a) Effective at the close of September 30, 1978, title V and title VII are repealed. The Commissioner on Aging may complete any project which was undertaken under either such title, or under title V, as so redesignated in section 105(a), before such date, and which is unfinished on such date, with funds obligated but unexpended on such date.

(b) No contract awarded after September 30, 1982, shall be entered into for the provision of nutrition services unless such contract has been awarded through a competitive process. Such process shall include evaluation of each bidder's experience in providing services to older individuals. Whenever there is no evidence of improved quality of service and cost effectiveness on the part of another bidder, a provider of services who received funds under title VII of the Older Americans Act of 1965 as in effect on September 29, 1978, shall be given preference.

(42 U.S.C. 3045 note) Enacted October 18, 1978, P.L. 95-478, sec. 501, 92 Stat. 1558; amended December 29, 1981, P.L. 97-115, sec. 14, 95 Stat. 1608; amended October 9, 1984, P.L. 98-459, sec. 801(b), 98 Stat. 1792.

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